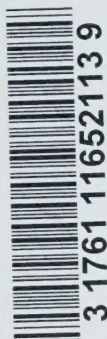


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ENVIRONMENTAL ASSESSMENT BOARD

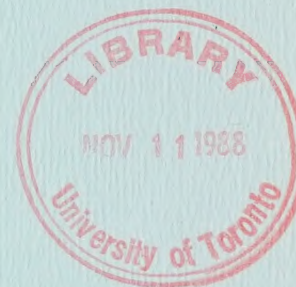
VOLUME: 52

DATE: November 2nd, 1988

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -


IN THE MATTER of an Order-in-Council
(O.C. 2449/87) authorizing the
Environmental Assessment Board to
administer a funding program, in
connection with the environmental
assessment hearing with respect to the
Timber Management Class
Environmental Assessment, and to
distribute funds to qualified
participants.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Wednesday, November 2nd,
1988, commencing at 9:30 a.m.

VOLUME 52

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member



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<u>FRANK KENNEDY,</u>	
<u>JOHN McNICOL,</u>	
<u>JOSEPH BEECHEY,</u>	
<u>NEVILLE WARD,</u>	
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1 ---Upon commencing at 9:40 a.m.

2 THE CHAIRMAN: Good morning everyone,
3 welcome back.

4 The Board notes some new faces in the
5 audience. Firstly, Ms. Swenarchuk, we would like to
6 convey our congratulations on the birth of your child.

7 Well, ladies and gentlemen, we are about
8 to start off on the next round albeit we will have a
9 break in about a month, but we want to emphasize that
10 many of the procedural orders that the Board has made
11 to date, and some of which will come into effect
12 starting with Panel 8, in the Board's view are going to
13 be rigorously enforced because we are determined, as we
14 have indicated many times in the past, to do whatever
15 we can to expedite this hearing.

16 In consequence, we will start that off
17 today with enforcing our order made some time ago with
18 respect to the qualification of witnesses. The Board
19 has read the CVs of the witnesses, we do not expect
20 counsel to read the CVs into the record. We are
21 concerned over the last few panels that although we had
22 indicated we do not expect the CVs to be read, counsel
23 asked Board to read a few words in and the few words
24 gets to be a few more words and, before you know it, we
25 are spending 10, 15, 20 minutes per witness.

1 The procedure will be that if you can
2 advise the Board in what area you want the witness
3 qualified, if any counsel or parties object to that
4 qualification in that area they will have an
5 opportunity to advise the Board of their objection. In
6 that case counsel, in order to defend the objection,
7 may refer to items in the CV and the Board will rule on
8 the qualification, otherwise we do not expect any of
9 the information contained in the CVs to have to go on
10 the record. It is in the record by virtue of it being
11 admitted as an exhibit as part of the witness
12 statement.

13 So, I guess we can start. Unless there
14 are some preliminary matters, and perhaps you want to
15 deal with something, Ms. Murphy, on the site visit
16 before we start.

17 MS. MURPHY: Well, I did, Mr. Chairman,
18 except my difficulty is that Mr. Mander and I were
19 going to do a duet.

20 THE CHAIRMAN: Oh, and you have lost part
21 of the duet.

22 MS. MURPHY: That's right. It may be
23 best just to leave it to early this afternoon. We did
24 need to deal with identity of persons and a few things
25 to do with the site visit and that's probably the most

1 expeditious way to cope with that.

2 THE CHAIRMAN: Very well.

3 Mr. Freidin, are you going to be handling
4 this panel?

5 MR. FREIDIN: Yes, but if I could just
6 have a couple of minutes to see whether there is
7 anything that wasn't in the curriculum vitae that I
8 wasn't going to ask these witnesses.

9 MS. MURPHY: Perhaps if I can just take a
10 minute and hand out to people the curriculum vitae --
11 or it's the short version really of Mr. McCreadie, it
12 is something that I wanted people to have. Mr.
13 McCreadie, as you know, is going to be the guide on the
14 site visit.

15 THE CHAIRMAN: Very well.

16 MS. MURPHY: (handed)

17 THE CHAIRMAN: Thank you.

18 MR. FREIDIN: Perhaps I can just ask the
19 panel members to take their seats up here.

20 Mr. Chairman, the long form of the
21 curriculum vitae of Mr. Beechey and Mr. Pyzer went out
22 with the answers to the interrogatories. In fact, I
23 don't believe that there is even a short form of Mr.
24 Pyzer's in the witness statement. In light of that...

25 THE CHAIRMAN: I take it that has not

1 been filed with the Board then?

2 MS. MURPHY: Yes.

3 THE CHAIRMAN: It has, that
4 interrogatory?

5 MS. MURPHY: If I might assist, those
6 documents were sent out in a mailing that had
7 interrogatories in the mailing in an attempt to try to
8 cope with the numbers and so forth. That material has
9 been provided to the Board, to Mr. Mander but we did
10 want to ensure that the Board members had received
11 them. You have indicated that you have read the
12 curriculum vitae.

13 THE CHAIRMAN: I am not sure I have seen
14 them, I am not sure about my colleagues. Have you seen
15 them?

16 MR. MANDER: What are we talking about?

17 THE CHAIRMAN: Two CVs that were part of
18 interrogatories. I do not think we have seen them, I
19 am most sure.

20 MS. MURPHY: All right. Well, we will
21 make sure that you get copies over the noon break.

22 THE CHAIRMAN: All right. We will read
23 them.

24 MS. MURPHY: Thank you.

25 MR. FREIDIN: Mr. Chairman, perhaps

1 before we qualify the witnesses I could just provide
2 the Board with a few brief opening remarks about this
3 particular panel.

4 The panel, as you are aware, is entitled
5 Environment Affected, the Forest Management Unit and
6 Resource Management Planning. This particular panel is
7 another important piece of the evidence which deals
8 with the requirement of the Environmental Assessment
9 Act to describe the environment affected.

10 The requirement has been addressed by
11 earlier panels, as I have already indicated on earlier
12 occasions, and the environment affected will continue
13 to be a matter which will be dealt with throughout the
14 rest of the panels. This particular panel is going to
15 be referring to the database which is normally
16 available at the management unit level for making
17 resource management decisions.

18 And I would indicate to the Board that
19 whether that database is adequate or not is a decision
20 which will not be possible to make solely on the
21 evidence of this panel. The adequacy of the
22 information available, in my submission, can only be
23 made after a consideration of all the evidence that the
24 proponent will be giving.

25 In particular, you are aware that there

1 are a number of panels to follow which will deal with
2 the specific timber management activities for which
3 approval is being sought and those panels will all deal
4 with the potential effects of those activities on the
5 environment. And it is my submission that one must
6 have an appreciation of those potential effects of
7 timber management to assess whether in fact sufficient
8 information about the environment is available at the
9 management unit level.

10 Most of the information collected and
11 normally available on the management unit is not
12 collected solely for timber management purposes. The
13 witnesses will testify in regard to that matter.

14 Evidence will also indicate that data
15 collection is an on-going process and that there is not
16 a fresh start at the beginning of each timber
17 management planning exercise to go out and collect
18 data. The evidence will indicate that there is a
19 growing data bank being prepared as more timber
20 management plans are being developed and as other
21 resource management plans or proposals are being
22 developed.

23 The witnesses will be addressing the
24 statement which is made in the materials at a number of
25 locations that the amount of the information collected

1 is dependent on the decision being made and the risk of
2 harm and that this is the only practical approach when
3 you are dealing with a large land base such as the one
4 that is being dealt with in this environmental
5 assessment.

6 The type of information that is available
7 about the environment will also be important for the
8 Board when it hears submissions I am sure at the end of
9 this environmental assessment from certain quarters
10 that the Ministry of Natural Resources should collect
11 more information on more matters more frequently than
12 they do at the present time. I say it is important
13 because I just think the Board should understand when
14 considering these submissions that there is in fact a
15 host of information which is collected as a regular
16 matter of course in terms of the administration of the
17 various programs that the Ministry has the
18 responsibility for.

19 The panel will also be giving evidence to
20 support the proposition that information and data is
21 not always, nor need it always be quantitative or what
22 might be referred to as hard data. The evidence will
23 indicate that information regarding the concerns and
24 the feelings of the various stakeholders can be just as
25 important as that hard type of data.

1 The panel will also be testifying that
2 more data, more hard data is not always the answer to
3 resource management decisions -- or resource management
4 issues, that in some cases what is required is the
5 better utilization of an existing database. There will
6 be some discussion of that in this panel and in panels
7 to follow.

8 During this panel, Mr. Chairman, it is
9 going to be impossible not to refer to some of the
10 documents or some of the information which is going to
11 be dealt with by later panels. I say it is
12 unavoidable because I don't believe it would be very
13 helpful to the Board if we just had witnesses list for
14 you the type of information that is collected.

15 'It is my submission that you must have
16 some sense of why that information is being collected
17 and how it is used and the witnesses intend to deal
18 with that particular aspect of the subject matter.

19 THE CHAIRMAN: Provided you are not going
20 to do it twice.

21 MR. FREIDIN: No chance.

22 THE CHAIRMAN: That is guaranteed.

23 MR. FREIDIN: In addition, this panel
24 will be touching on certain aspects of timber
25 management planning for the same reasons. I have no

1 desire to duplicate the evidence any more than you do,
2 Mr. Chairman.

3 You will have noted, Mr. Chairman, that by
4 a review of the curriculum vitae of the witnesses on
5 this panel, both the ones that you have looked at and
6 again after you look at perhaps the final two, that for
7 the most part the witnesses that you have before you
8 have had considerable experience in timber management
9 planning although there is only one witness who is in
10 fact practising as a forester and that, in many
11 respects, the panel before you is like a planning team
12 that you will hear about throughout the evidence of
13 this panel and Panel No. 15, that's the
14 interdisciplinary planning team that in fact sits down
15 and together deal with concerns in relation to all of
16 various resources when timber management plans are
17 being prepared.

18 And the last matter, Mr. Chairman, with a
19 panel of this size, I felt that something had to be put
20 in place to deal with questions which may be asked of
21 the panel generally, that rather than having everyone
22 looking down the long table, that we would have
23 somebody as sort of the quarterback or the team leader
24 and Mr. Clark who is at the left end of that panel is
25 going to attempt to fulfill that role.

1 Now, in terms of qualifications. Mr.
2 Clark, I would ask that he be qualified as an expert in
3 resource management.

4 THE CHAIRMAN: We might as well go
5 through these one by one. Any counsel have any
6 objections to a qualification in this area?

7 (No response)

8 Very well. Mr. Clark you will be
9 qualified as an expert in resource management.

10 MR. FREIDIN: I will give these names in
11 the order in which the evidence will be given, Mr.
12 Chairman.

13 Neville Ward, who is the third person from
14 the right side of the table. I would ask that Mr. Ward
15 be qualified as an expert, as a fisheries biologist
16 with particular expertise in fish habitat and fisheries
17 management.

18 THE CHAIRMAN: Any objections, counsel?

19 (No response)

20 Very well. Fisheries biologist.

21 MR. FREIDIN: Mr. McNicol who is wearing
22 the brown suit. He has obtained a degree in forestry
23 from the University of Toronto in 1971, but his
24 evidence will primarily be in relation to wildlife and
25 I would ask that he be qualified as an expert in

1 wildlife -- pardon me, be qualified as a wildlife
2 biologist and that where, based on his academic
3 background as a forester, that he be available to
4 testify and give opinions in relation to forestry
5 matters as well.

6 THE CHAIRMAN: Any objections?

7 (No response)

8 Very well. You will be so qualified.

9 MR. FREIDIN: Mr. Beechey, who is the
10 other bearded witness other than Mr. Ward who you have
11 been introduced to - I am sorry, Mr. Clark, you have a
12 beard (it's back) - Mr. Clark changes from time to
13 time.

14 Mr. Beechey, I would be asked that he be
15 qualified as an expert in the conservation of life
16 science features and protected areas.

17 THE CHAIRMAN: What would you call that
18 kind of person?

19 MR. FREIDIN: Ask Mr. Beechey.

20 MR. BEECHEY: Conservation biologist.

21 THE CHAIRMAN: Any objections to that
22 qualification?

23 (No response)

24 Very well.

25 MR. FREIDIN: Mr. Kennedy, who you know.

1 There is one thing that was not in his curriculum vitae
2 that I would like to ask him about, there is only one
3 question perhaps.

4 Mr. Kennedy, can you advise whether you
5 have any role as an instructor of any sort when people
6 are trained in the timber management planning process
7 that is going to be discussed and has been discussed to
8 this point in the evidence?

9 MR. KENNEDY: Yes, I have had some
10 involvement in the training sessions that we have been
11 holding for the implementation of the new timber
12 management planning manual, as well as been available
13 for consultation with the district staff during the
14 preparation of plans.

15 MR. FREIDIN: Mr. Chairman, I ask that
16 Mr. Kennedy be qualified as a forester and an expert in
17 timber management planning and I would ask that as a
18 result -- or by reason of fact that we will be
19 appearing in the panel and dealing with site
20 preparation that you pay some particular note to his
21 expertise or the special attention that site
22 preparation has been given in Mr. Kennedy's career.

23 THE CHAIRMAN: Any objections, counsel?

24 (No response)

25 Very well. He will be qualified in those

1 areas.

2 MR. FREIDIN: And the last witness is
3 Gord Pyzer, presently the district manager in Kenora.
4 There is one question that I would like to ask that
5 arises from his curriculum vitae and that is under the
6 heading of Awards.

7 There is reference to the President's
8 Cup, 1987 awarded by the Northern Ontario Tourist
9 Outfitter's Association.

10 Could you advise the Board, Mr. Pyzer,
11 what that award was for?

12 MR. PYZER: The NOTOA, Northern Ontario
13 Tourist Outfitter's awards -- the President's trophy
14 once I believe every two years to an individual who
15 contributes, in their estimation, the most to
16 benefitting tourism in northern Ontario.

17 So it was for my work with the Ministry
18 in relation to dealing with the tourist industry.

19 MR. FREIDIN: Thank you. I would ask
20 that Mr. Pyzer be qualified as an expert in resource
21 management.

22 THE CHAIRMAN: Any objections?

23 (No response)

24 Thank you. He will be qualified in that
25 area.

1 Well, gentlemen, we should have you sworn
2 I think at this stage. If you all would not mind to
3 chute forward because we can do a joint swearing of
4 this panel.

5 CAMERON CLARK,
6 FRANK KENNEDY,
7 JOHN McNICOL,
8 JOSEPH BEECHEY,
9 NEVILLE WARD,
10 GORDON PYZER, Sworn

11 MS. BLASTORAH: We set up this obstacle
12 course just to get them ready.

13 MR. FREIDIN: I would like that to be
14 done when I can bring my camera, please.

15 THE CHAIRMAN: Well, Mr. Freidin, you
16 have just set the record for the shortest qualification
17 of a witness panel in the Province of Ontario.

18 MR. FREIDIN: I take no credit for that.
19 Mr. Chairman, a number of filings. Rather than perhaps
20 bringing them all up there at the moment, I am just
21 going to first of all provide copies to the Board of
22 pages 579 to 5 -- I am sorry, Mr. Chairman.

23 THE CHAIRMAN: Thank you. Shall we
24 perhaps put in the statements first and if you are
25 going to be adding supplements to the statements
themselves?

MS. BLASTORAH: Mr. Chairman, if I could

1 just address that briefly. I have spoken to Mr.
2 Mander and the Ministry has been providing six copies
3 of the witness statements to the Board, as you are
4 aware, and I understand one of those was for your
5 office in Toronto, one is for the reading room, one for
6 each of the Board members, and then an extra copy we
7 weren't sure what would be done with it.

8 I have spoken to Mr. Mander and his view
9 is that is the copy that we would mark as the exhibit.
10 I didn't have an opportunity to catch him before the
11 hearing so I believe that copy is in the reading room
12 and I will see that he has it marked as an exhibit.

13 THE CHAIRMAN: Okay. Well, perhaps we
14 can just give it the number then at this time.

15 MS. BLASTORAH: That's fine, Mr.
16 Chairman.

17 THE CHAIRMAN: The witness statement
18 which is in three parts I think we should mark as
19 Exhibit 266 with Volume 1 being 266A, Volume 2 being
20 266B, and Volume 3 being 266C.

21 ---EXHIBIT NO. 266A: Volume 1 of Panel VII witness
22 statement.

23 ---EXHIBIT NO. 266B: Volume 2 of Panel VII witness
24 statement.

25 ---EXHIBIT NO. 266C: Volume 3 of Panel VII witness
statement.

1 MR. FREIDIN: The document I want to file
2 with you is from 226B, it is replacements for pages 579
3 to 590 which is the copies which were put in the
4 witness statement were not that clear.

5 If counsel or other parties, upon taking
6 a look at that particular document, would like a
7 clearer copy that you could ask and we will provide
8 that to them. We haven't as yet received any concerns
9 any complaint or concern about that particular matter
10 so we just made four copies for the Board.

11 I also want to file...

12 THE CHAIRMAN: Very well. I think that
13 paper that you are going to be filing, which are
14 pages...?

15 MR. FREIDIN: 579 to 590 of the witness
16 statement is actually pages in Exhibit 266B.

17 THE CHAIRMAN: All right. Mr. Freidin,
18 those pages 579 to 590 are actually of Exhibit 266B?

19 MR. FREIDIN: Right.

20 THE CHAIRMAN: So I do not think we have
21 to give them a separate exhibit number, they are
22 already there.

23 MR. FREIDIN: And to save a number of
24 trips up there, I have a new page 537, again of Exhibit
25 266B, part of the paper produced by Mr. Ward and I do

1 have copies of that particular document. The only
2 change in this document is that the right-hand column
3 on that table was not reproduced in full on page 537 of
4 the witness statement.

5 THE CHAIRMAN: Well, since this is a
6 different document, it changes the document that is in
7 Volume 2, perhaps that page should be given an
8 additional number.

9 So page 537 of Exhibit 266B will be
10 Exhibit 267.

11 ---EXHIBIT NO. 267: Revised page 537 of Volume 2 of
12 Panel VII witness statement
(Exhibit 266B).

13 MR. FREIDIN: Also I would like to file
14 replacements for pages 531 to 535, again on Exhibit
15 266B. There is new information on these, so these
16 should as well be given a separate exhibit number.

17 MRS. KOVEN: What is the page number, Mr.
18 Freidin?

19 MR. FREIDIN: Page 531 to 535 inclusive
20 of 266B.

21 THE CHAIRMAN: All right. That will be
22 Exhibit 268.

23 ---EXHIBIT NO. 268: Revised pages 531-535 of Volume 2
24 of Panel VII witness statement
(Exhibit 266B).

25 MR. FREIDIN: The next one that follows

1 is a series of interrogatories and the answers to them.
2 What I have done, Mr. Chairman, and I have -- there are
3 quite a few of them. I would suggest that each
4 interrogatory be given a separate exhibit number
5 because of the way they will be dealt with in the
6 evidence.

7 THE CHAIRMAN: Very well.

8 MR. FREIDIN: So what you have there, Mr.
9 Chairman, the first interrogatory is Ministry of the
10 Environment Interrogatory No. 1. There is four copies
11 there.

12 THE CHAIRMAN: Right.

13 MR. FREIDIN: I would ask that that be
14 made the next exhibit.

15 THE CHAIRMAN: Okay. So we better
16 verbally put this into the record.

17 MR. FREIDIN: So MOE Interrogatory No. 1
18 and the answer, of course.

19 THE CHAIRMAN: That will be Exhibit 269.

20 ---EXHIBIT NO. 269: MOE Interrogatory No. 1 and
21 answer.

22 MR. FREIDIN: The next one I believe is
23 Ministry of the Environment Interrogatory No. 3.

24 ---EXHIBIT NO. 270: MOE Interrogatory No. 3 and
25 answer.

1 THE CHAIRMAN: Just one second. We have
2 got to get organized up here so we have got a system
3 going so we all get the right numbers.

4 Okay, Mr. Freidin, we are up to Ministry
5 of Environment's Question 6. Would that be the next
6 one?

7 MR. FREIDIN: The next one is 6, yes.

8 THE CHAIRMAN: Okay. That will be
9 Exhibit 271.

10 ---EXHIBIT NO. 271: MOE Interrogatory No. 6 and
11 answer.

12 MR. FREIDIN: The next one that I have is
13 MOE Interrogatory No. 16.

14 THE CHAIRMAN: Exhibit 272.

15 ---EXHIBIT NO. 272: MOE Interrogatory No. 16 and
16 answer.

17 MR. FREIDIN: I thought this was the
18 fastest way to a thousand, Mr. Chairman.

19 THE CHAIRMAN: The next one, Ministry of
20 Environment Question 19.

21 MR. FREIDIN: Yes.

22 THE CHAIRMAN: Exhibit 273.

23 ---EXHIBIT NO. 273: MOE Interrogatory No. 19 and
24 answer.

25 THE CHAIRMAN: Ministry of Environment

1 Question No. 23, Exhibit 274.

2 ---EXHIBIT NO. 274: MOE Interrogatory No. 23 and
3 answer.

4 THE CHAIRMAN: Ministry of the
5 Environment Question 24, Exhibit 275.

6 ---EXHIBIT NO. 275: MOE Interrogatory No. 24 and
7 answer.

8 THE CHAIRMAN: Ministry of the
9 Environment Question No. 20, Exhibit 276.

10 ---EXHIBIT NO. 276: MOE Interrogatory No. 20 and
11 answer.

12 MR. FREIDIN: Yes.

13 THE CHAIRMAN: Ministry of the
14 Environment Question 28 will be Exhibit 277.

15 ---EXHIBIT NO. 277: MOE Interrogatory No. 28 and
16 answer.

17 MR. FREIDIN: Mr. Chairman, before we
18 mark the next one, there is one missing and perhaps we
19 could just reserve a number for Ministry of the
20 Environment Interrogatory No. 30.

21 THE CHAIRMAN: All right. That will be
22 Exhibit No. 278. You will be providing that?

23 MR. FREIDIN: Yes.

24 ---EXHIBIT NO. 278: MOE Interrogatory No. 30 and
25 answer.

1 THE CHAIRMAN: Okay. The next one we
2 have is Ontario Federation of Anglers and Hunters
3 Question No. 3.

4 MR. FREIDIN: Yes.

5 THE CHAIRMAN: That will be Exhibit 279.
6 ---EXHIBIT NO. 279: OFAH Interrogatory No. 3 and
7 answer.

8 THE CHAIRMAN: The next one is the
9 Venture Tourism Association of Ontario Question 34.
10 That will be Exhibit 280.

11 ---EXHIBIT NO. 280: Venture Tourism Association of
12 Ontario Interrogatory No. 34 and
answer.

13 THE CHAIRMAN: Venture Tourism
14 Association of Ontario Question 45 will be Exhibit 281.

15 ---EXHIBIT NO. 281: Venture Tourism Association of
16 Ontario Interrogatory No. 45 and
answer.

17 THE CHAIRMAN: Venture Tourism
18 Association of Ontario Question 49 will be Exhibit 282.

19 ---EXHIBIT NO. 282: Venture Tourism Association of
20 Ontario Interrogatory No. 49 and
answer.

21 THE CHAIRMAN: Venture Tourism
22 Association Question 52 will be Exhibit 283.

23 ---EXHIBIT NO. 283: Venture Tourism Association of
24 Ontario Interrogatory No. 52 and
answer.

25 THE CHAIRMAN: Venture Tourism

1 Association Question 53 will be Exhibit 284.

2 ---EXHIBIT NO. 284: Venture Tourism Association of
3 Ontario Interrogatory No. 53 and
answer.

4 THE CHAIRMAN: Nishnawbe-Aski Nation
5 Question No. 2 will be Exhibit 285.

6 ---EXHIBIT NO. 285: NAN Interrogatory No. 2 and
7 answer.

8 THE CHAIRMAN: Nishnawbe-Aski Nation
9 Question 3 will be Exhibit 286.

10 ---EXHIBIT NO. 286: NAN Interrogatory No. 3 and
11 answer.

12 THE CHAIRMAN: Nishnawbe-Aski Nation
13 Question No. 6 will be Exhibit 287.

14 ---EXHIBIT NO. 287: NAN Interrogatory No. 6 and
15 answer.

16 THE CHAIRMAN: Nishnawbe-Aski Nation
17 Question 7 will be Exhibit 288.

18 ---EXHIBIT NO. 288: NAN Interrogatory No. 7 and
19 answer.

20 THE CHAIRMAN: Now, the Mosquin
21 Bio-Information Limited, Question No. 1 will be Exhibit
22 289.

23 ---EXHIBIT NO. 289: Mosquin Bio-Information Limited
24 Interrogatory No. 1 and answer.

25 THE CHAIRMAN: Mr. Freidin, we do not

1 recognize the company that has submitted this
2 interrogatory as being on the parties list; are they?

3 MR. FREIDIN: Yes, it is on the full-time
4 correspondence list.

5 THE CHAIRMAN: They are.

6 MR. FREIDIN: Ted Mosquin being -- it may
7 be on the list as Mr. Mosquin. I think it is Mosquin
8 Bio-Information Limited. He appeared at the
9 preliminary in Ottawa.

10 THE CHAIRMAN: Very well. Mosquin
11 Bio-Information Limited, Question No. 2 will be Exhibit
12 290.

13 ---EXHIBIT NO. 290: Mosquin Bio-Information Limited
14 Interrogatory No. 2 and answer.

15 THE CHAIRMAN: Mosquin Bio-Information
16 Limited Question No. 3 will be Exhibit 291.

17 ---EXHIBIT NO. 291: Mosquin Bio-Information Limited
18 Interrogatory No. 3 and answer.

19 THE CHAIRMAN: Mosquin Bio-Information
20 Limited Question No. 6 will be Exhibit 292.

21 ---EXHIBIT NO. 292: Mosquin Bio-Information Limited
22 Interrogatory No. 6 and answer.

23 THE CHAIRMAN: Mosquin Bio-Information
24 Limited Question No. 10 will be Exhibit 293.

25 ---EXHIBIT NO. 293: Mosquin Bio-Information Limited

1 Interrogatory No. 10 and answer.

2 THE CHAIRMAN: Mosquin Bio-Information
3 Limited Question No. 11 will be 294.

4 ---EXHIBIT NO. 294: Mosquin Bio-Information Limited
5 Interrogatory No. 11 and answer.

6 THE CHAIRMAN: Northwatch Question No. 2
7 will be Exhibit 295.

8 ---EXHIBIT NO. 295: Northwatch Interrogatory No. 2 and
9 answer.

10 THE CHAIRMAN: Northwatch Question No. 4
11 will be Exhibit 296.

12 ---EXHIBIT NO. 296: Northwatch Interrogatory No. 4(1)
13 and answer.

14 MR. FREIDIN: That is 4 sub 1. There are
15 a number of -- Question 4, sub 1.

16 THE CHAIRMAN: Very well. Northwatch
17 Question No. 7 will be Exhibit 297.

18 ---EXHIBIT NO. 297: Northwatch Interrogatory No. 7 and
19 answer.

20 THE CHAIRMAN: Northwatch Question No. 12
21 will be Exhibit 298:

22 ---EXHIBIT NO. 298: Northwatch Interrogatory No. 12
23 and answer.

24 THE CHAIRMAN: Northwatch Question 14
25 will be Exhibit 299.

1 lunch as one of the Board members has a commitment back
2 in Toronto for five o'clock on that Thursday.

3 MR. FREIDIN: There are those that are
4 looking forward to that occasion.

5 THE CHAIRMAN: We did not say anything
6 with respect to the last week because we did not know
7 whether or not we would finish Panel 7. It is the
8 Board's intention to finish Panel 7 before we rise for
9 the two-month break.

10 So if we have to come back for the
11 remaining days in November, and even some days into
12 early December, we intend to do that to finish Panel 7,
13 but perhaps we will see where we are when we break for
14 the site visit.

15 MR. FREIDIN: The usual start time is
16 nine o'clock -- pardon me, one o'clock on the Mondays?

17 THE CHAIRMAN: I do not think we have a
18 choice on that unfortunately because, although the Air
19 Canada plane comes in an hour earlier, I do not think
20 the one from Sudbury comes in any earlier than it
21 previously did. So we will still start at one o'clock
22 on Mondays.

23 MR. FREIDIN: The first witness that I
24 would like to ask questions of is Mr. Clark.

25 DIRECT EXAMINATION BY MR. FREIDIN:

1 Q. Mr. Clark, in going through your
2 paper you deal with the administrative structure of the
3 Ministry and, as you are aware, the administrative
4 structure of the Ministry was dealt with in some detail
5 during Panel No. 1. Are you familiar with that
6 evidence?

7 MR. CLARK: A. Yes, I am.

8 Q. And I understand that your evidence
9 is not intended to be a repeat of that evidence?

10 A. That's correct.

11 Q. Could you advise why you have decided
12 to in fact address the same subject matter, the
13 administrative structure of the Ministry, and how you
14 are going to be able to do that without having a repeat
15 of that evidence?

16 A. You may recall from the Panel 1
17 evidence that Mr. Monzon and Mr. Douglas spoke about
18 the structure, the organizational structure of the
19 Ministry as a whole. My particular perspective in this
20 panel is to look at it from the point of view of the
21 district and I think there is a number of reasons for
22 doing that that are important.

23 When we got into discussions about
24 describing the kinds of data that we collect for
25 resource management purposes, for timber management

1 purposes and the adequacy of that data, and during the
2 preparation of that evidence when I was working
3 directly with counsel, I often found myself saying: It
4 is not like that; you have to have been there to
5 understand the way we do business. And this was
6 particularly true of our discussions concerning the
7 district organization and I must have said that once
8 too often because I am here now.

9 What I mean by that is that we can define
10 in writing - and we have already talked about in Panel
11 1 - the sort of institutional or administrative
12 structures that characterize the organization as a
13 whole and the district, but in addition to those - and
14 I emphasize here again the district - there are a
15 number of less formal characteristics that we can
16 attribute to districts that facilitate data collection
17 which characterize the way we do business generally
18 that I think are very important to understanding the
19 way we collect data and the way we use it and the way
20 we assess its adequacy.

21 So that is really the focus of what I am
22 going to be saying here.

23 Q. Now, Mr. Clark, in terms of data
24 generally, in the paper there is reference to data
25 collection being an on-going process and I understand

1 that you believe that that is an important fact that be
2 understood by everyone.

3 A. Absolutely. I think one of the
4 things I have noticed in reading the transcripts and
5 certainly in preparing and discussing our evidence,
6 there tends to be an assumption made by people that
7 when we get involved in an exercise like timber
8 management planning that we go through we start at zero
9 base and that we have to go out and collect a great
10 deal of information concerning resources and
11 stakeholders in the area in which the management plan
12 will take place.

13 The point I would like to make here and I
14 think it is a theme you will see running through all
15 the evidence in this particular panel is that in fact
16 data collection in a district is an on-going function,
17 it doesn't occur at just any point in time it occurs
18 throughout the existence of the district and, as I will
19 point out later, many districts have been in place for
20 a long period of time.

21 And another organizing concept that we
22 have introduced here and I mentioned in my paper and is
23 reflected throughout the evidence of the other panel
24 members, is that we regularly collect data through
25 administration of programs and you will see a number of

1 examples of that as the various witnesses on this panel
2 go through their material. We do moose surveys, we do
3 lake surveys -- or I should say aerial population
4 surveys of moose, we collect data on park users, a
5 whole range of on-going data collection programs that
6 are undertaken primarily for the purposes of meeting
7 the requirements of those particular programs not
8 specifically for timber management.

9 The other point I would mention is that
10 we specially collect data and this again will be
11 referenced by a number of the panel members, but in
12 addition to sort of regularly collecting data as part
13 of the general administration of programs, we often
14 collect special data to supplement that which we
15 already have because of the decisions that we are going
16 to be making and that in effect becomes part of the
17 database of the district itself.

18 The last point I would make in terms of
19 this on-going data collection is that we receive and
20 actively collect data from other sources. You have
21 heard in other evidence the reference to stakeholder
22 groups and we, I would say, are very proactive in terms
23 of the way we go after information that other groups,
24 cottagers associations, naturalist groups, the forest
25 industry, the mining industry, individuals in

1 communities. We actively solicit through a variety of
2 means, including note the least of which of course is
3 this sort of formalized planning process that we get
4 involved in, additional information to supplement that
5 that is either regularly collected or specially
6 collected.

7 So I guess the two points I would make is
8 that -- well, there is really three here: One is this
9 concept data collection being on-going is an important
10 thing to keep in mind, we don't start from zero base.
11 Secondly, there is what I would refer to as a
12 structured collection of data that is associated with
13 the on-going administration of programs and through a
14 variety of other mechanisms, including public
15 consultation associated with planning and, in addition
16 to that, there are the less formal contacts which I
17 will be elaborating on that have to do with the way we
18 deal with the general public in the context of the
19 district.

20 Q. And you refer to the information
21 which is regularly or specially collected by programs
22 other than timber management -- pardon me, other than
23 the forestry people. Does that information come into
24 play then as part of the exercise that is gone through
25 by the planning team, the timber management planning

1 team?

2 A. Yes, it does. I think you
3 probably -- the Board is already aware of the fact that
4 in resource management planning generally we establish
5 what you could refer to as multi-disciplinary or
6 multi-program planning teams and the individual members
7 of that team normally represent the various services in
8 the district, so you have got somebody from fish and
9 wildlife, you have somebody from parks, somebody from
10 lands, and so on. And one of the responsibilities of
11 those members is to, in effect, reflect the database
12 that exists within that particular service.

13 Q. Mr. Clark, at page 87 of the witness
14 statement, that is Exhibit 266A, I would just like to
15 refer you to paragraph 3.7 on page 87 and if you can go
16 down to almost the bottom of that first full paragraph
17 you indicate about eight or nine lines up that:

18 "Given the geographic extent of districts
19 and the limitations of funding and staff,
20 it is not feasible or necessary to
21 regularly collect detailed information on
22 all aspects of the aquatic, terrestrial
23 and socio-economic environment throughout
24 the district. The kind, amount and
25 specificity of data collected in any

1 particular situation is dependent on the
2 nature and subject of the specific
3 resource management decision being made
4 and the magnitude of the potential effect
5 of that decision."

6 I believe that last concept has been
7 referred to in the evidence using those words and
8 perhaps others. I am just wondering whether you could
9 expand somewhat and explain what you mean by that last
10 comment about the nature and subject of the specific
11 resource management decision being made and the
12 magnitude of the potential effect of that decision
13 plays a role in the amount of data that is actually
14 collected?

15 A. Well, this is a pretty important
16 concept I think to the information that we are
17 presenting today. What we have said is the kind,
18 amount and specificity of data is the function of the
19 decision being made and I think there is perhaps a
20 couple of other ways we could say the same thing that
21 may help the Board, although I am sure the Board
22 understands this concept.

23 Another way of saying it is is that the
24 kind, amount and specificity of data is a function of
25 the risk of harm being done and another way that

1 involves putting it in the EA vernacular, if you want,
2 is to say that the kind, amount and specificity of data
3 is a function of the potential effect on the
4 terrestrial, aquatic and socio-economic environment.

5 And I guess that really begs the
6 question -- if the amount depends on the potential
7 effect, the question arises in the context of the way
8 we do business, particularly at the district level:
9 How do you assess what that potential effect is in
10 order to assess the quality of the data that you have.

11 And I think this is very important in
12 terms of understanding the data which we will be
13 reviewing during the next few hours with this panel
14 and it may be helpful if I run through what I think is
15 a characterization of the way we do business in the
16 district, particularly with respect to this issue.

17 In assessing the adequacy of data, as I
18 pointed out, we really have to go through a process at
19 the district level of determining what we think the
20 potential effects on the aquatic terrestrial and
21 socio-economic environment are and this is not simply
22 with respect to timber management activities or timber
23 management planning activities, it has to do with a
24 whole host of issues that the district office and the
25 Ministry gets involved in. And because we have this

1 mandate that involves the planning and management and
2 disposition of Crown land and resources, it really
3 figures to be front row centre in much of what we do.

4 So the best way I can suggest that I talk
5 about this is to provide you with a scenario where we
6 are often faced in the district with proposals that
7 involve the disposition of Crown land and resources
8 and really the first thing we have to do is come to
9 some initial evaluation on the potential effects of
10 that proposal, which then allows us to make some
11 determination as to the adequacy of our data. And the
12 way that happens in the district I think is very much
13 important to understanding the way we use our data.

14 The first point I want to make, and much
15 of what I am going to be saying here will be stressed
16 in Panel 8 and revisited in more detail, but the first
17 thing I want to stress is that when we deal with
18 proposals at the district level we have people in the
19 district who are part of, in effect, an IRM team that
20 are trained professionals with experience who have
21 local knowledge from an IRM perspective and this
22 particular theme is going to be revisited over and over
23 and over again.

24 We have people with, as I said, local
25 knowledge, experience, professional training who are

1 asked to make professional judgments about the adequacy
2 of data.

3 Now, their decisions are guided and
4 bounded by a number of factors. One is: They always
5 have to make reference to what I would characterize as
6 pre-existing obligations and the most obvious one, if a
7 fisheries biologist is looking at a problem is the
8 particular mandate of his program. Others would
9 include things like regional and strategic land use
10 plans and district land use guidelines.

11 In reviewing a proposal we also have to
12 make reference to the existing database in the district
13 and this is this amalgam of regularly, specially and
14 other data collected which, in effect, makes up the
15 database of the district at any particular point in
16 time.

17 In assessing potential effects in a
18 general way, we may also consult with other ministries,
19 for example, the Ministry of the Environment. We may
20 consult with a whole range of other agencies, for
21 example, local government or even school boards, if
22 that happens to be appropriate.

23 We would consult - and I stress that this
24 is in the informal setting of the district where we are
25 not in a rigorous institutionalized planning system -

1 would normally and regularly consult with other
2 affected parties, and I think we have referred to those
3 individuals or parties in other evidence as stakeholder
4 groups. We may from time to time as needed consult
5 with experts within the Ministry or external experts.

6 We may get involved in field recognizance
7 studies or not -- I wouldn't say studies, but simply
8 field recognizance to check things out for dealing with
9 proposals.

10 And staff in the district have access to a
11 host of what I will refer to as implementation manuals
12 or tools that ministerial direction to their actions.
13 Now, I don't want to go into all these in detail
14 because they will be -- all of this material will be
15 dealt with in more detail in Panel 8, but it is on the
16 basis of initial evaluations made by professional staff
17 who are guided and bounded by these kinds of
18 considerations, it is on that basis that we make
19 evaluations about the adequacy of the data that we have
20 relative to the particular decision that is going to be
21 made.

22 And the outcome of that may be that we
23 require more information or that the information we
24 have is adequate. And, of course, once we have done
25 that we then have to look at the whole series of

1 parameters concerning the most cost effective way of
2 actually getting the information we need which is
3 tempered by the geography of the areas that we are
4 dealing with and a range of other factors.

5 Q. Is the collection of data affected by
6 any matters other than cost and efficiency that you
7 referred to?

8 A. Well, I stress cost and efficiency
9 because I don't think you can get away from the fact,
10 that given the size of the area of the undertaking, and
11 even the size of individual districts, cost and
12 efficiency has to be a consideration that we look at.
13 But I guess there are a number of other important
14 considerations when we get involved in this whole
15 process.

16 We don't feel we need to collect data on
17 everything everywhere and we rely very much on the
18 concept of sampling, partial samples as opposed to
19 looking at the total population, if you want.

20 We look for surrogates that represent the
21 things that we are interested in, we focus on critical
22 paramaters, if you want, maybe critical fish habitat
23 for example as opposed to all habitat. And we look
24 for -- I guess in general ways, we look at things like
25 extrapobility and predictability of the data that we

1 use and those are the kinds of considerations I think
2 that allow us to establish data collection techniques
3 that are cost effective and more efficient than if we
4 were to collect, as I say, all data everywhere.

5 Q. You made reference to in some cases
6 you are looking at surrogates. Can you give an
7 example of what you are speaking of?

8 A. I think an example -- more obvious
9 example I suppose would be something that John may wish
10 to speak to, but it would be - John McNicol - and that
11 would be that we can look for those things that
12 characterize critical moose habitat and we can do that
13 using a variety of things, for example, air photos, top
14 sheets, FRI maps and those kinds of things that allow
15 us to focus on what we think the essential requirements
16 of that particular species are without necessarily sort
17 of being on the ground and looking for it in a more
18 specific way.

19 Q. And I understand, Mr. McNicol, you
20 will be speaking about some of those very methods that
21 have been referred to?

22 MR. McNICOL: A. I will.

23 Q. Okay. Mr. Clark, is it possible for
24 you to provide an example of this approach to decision
25 making that you have described at the district level,

1 sort of pulling those pieces together?

2 MR. CLARK: A. I think it would be.

3 Obviously I have thought about this and what I have got
4 here is a hypothetical example, but it may be helpful
5 in very practical terms to get away from the
6 generalized talk and provide a simple example of what I
7 think regularly happens in the district.

8 It may be helpful if I draw a very simple
9 diagram on the flip chart. Maybe I can move this.

10 THE CHAIRMAN: Move it out just a little
11 bit, please. Can everybody see the flip chart?

12 MR. CLARK: This is not a timber
13 management example but really it is very typical I
14 think of the kinds of situations the districts
15 regularly find themselves in.

16 I guess the point I am making in all this
17 evidence is that we have been talking in very specific
18 terms about for timber management, but in a general way
19 if you are talking about the way we do business in the
20 district, I think this tends to typify it. I am going
21 to simplify things because I think we are more
22 interested in the process here and some general
23 messages rather than the details of the proposal.

24 But we will assume we have a lake here
25 with a bay on it and north facing arrow and we have a

1 railway, it could be CNR, CPR, ACR, it runs along the
2 lake here, and this is the lake here. (indicating)

3 And in this particular situation the
4 railway company in question decides that it wants to
5 upgrade its line and part of that upgrading means
6 straightening it and what that means in terms of this
7 particular area is that instead of going around a lake
8 they want to go across the lake. Now, that kind of an
9 example would be fairly typical of the kind of proposal
10 that is regularly -- the districts regularly face,
11 almost on a weekly basis.

12 Now, when a proposal like this comes to a
13 district I think there are several important things to
14 remember. The person it comes to is the district
15 manager. He is the person or she is the person who is
16 responsible for making the ultimate recommendation on
17 what should happen in the particular case.

18 The next point I would like to make
19 though is that the district manager has an IRM team and
20 I talked about people who have training, are expected
21 to make professional judgments have local knowledge
22 and experience and have reference to a whole series of
23 things that, in effect, guide and bound their decision.

24 So I receive the proposal and what the
25 proposal says is that they want to cut across a bay

1 here and the question that I am asking myself, sort of
2 dealing with my comfort level as a district manager,
3 is: Do I have enough of the right kind of information
4 to deal with this particular problem which is the same
5 way I think that we are dealing with timber management
6 generally when we talked about the kinds of data that
7 we collect.

8 And the way I deal with that is that I
9 circulate that to my staff in the region and basically
10 I am asking them to evaluate that material in light of
11 their particular program and make a decision as to what
12 the potential impact of that particular proposal might
13 be and, secondly, whether or not we have sufficient
14 information to make a reasonable judgment and the focus
15 of much of what they are looking at is the risk of harm
16 being done.

17 So that, for example, when a fisheries
18 biologist receives that particular proposal he is going
19 to look at his existing database that's been collected
20 on an on-going basis. It may include lake surveys
21 which have been referenced in the evidence, it may
22 involve descriptions of critical habitat areas on the
23 lake and what he will probably did, or she, is focus on
24 the lake and more particularly on the bay in terms of
25 the paramaters that are critical to their particular

1 program.

2 So they look at what they have in stock
3 in terms of regularly collected, special, and other
4 data and they may find that they think the pickerel
5 spawn in that bay and they think that in that bay it
6 may be a nursery area and they may devise a whole
7 series of questions which then they will go back to in
8 terms of the data they have to determine whether or not
9 they can answer them.

10 And, of course, it may well be that:
11 Well, I have a generalized lake survey for the lake
12 which probably be the standard kind of information that
13 would be available. They may find in terms of
14 identification of critical habitat they don't have a
15 lot of information on that particular area and then
16 they are faced with a proposition of what they usually
17 need and how they should get it.

18 Now, to carry that analogy a little
19 further you have to understand that each service
20 basically goes through this process. They may find
21 that the proponent wants to build a causeway out of
22 mine tailings because they are readily accessible from
23 the mine nearby. And, of course, the point I want to
24 make here is that when we are getting into water
25 quality considerations, for example, which would

1 normally be the purview of the Ministry of Environment,
2 in instances like that we would immediately - and I
3 think it is a normal way that MNR staff do business -
4 consult with their counterparts in MOE because it may
5 be the tailings are acidic, it may be they may be toxic
6 to fish. We don't know, we have to consult.

7 And the point I am making here is that if
8 you think of my original list of the things that I went
9 through, we look at in terms of our own particular
10 mandate. In areas where we overlap the domain of other
11 ministries, we look at and normally consult with them
12 to determine whether or not there is a potential
13 problem there and, therefore, do we have enough
14 information on it.

15 If you think about the list, again. The
16 fisheries biologist may consult with Dr. Peter Colby
17 who is a fisheries biologist in Thunder Bay in the
18 fisheries research section who is really noted as an
19 expert on pickerel and the district staff once again is
20 being asked to exercise their professional judgment
21 about the adequacy of the data.

22 But he has already looked at it in terms
23 of his own information, may have consulted with MOE, he
24 may then consult with the expert in fisheries
25 particularly as it relates to pickerel to find out

1 whether or not if you put a causeway and if you put
2 culverts in whether or not the flow of water would be
3 great enough to sustain populations and allow them to
4 reproduce there and so on?

5 And I think what I am simply pointing out
6 here is that you don't start out in this process
7 knowing what your minimum requirements are. There is
8 no cookbook here. There is no simple way of sitting
9 down and coming up with a nice tidy list of all the
10 things that you should have in order to make the
11 decision. You can sit down and make a list, for
12 example, in terms of fisheries or the kinds of
13 information you should probably make reference to, but
14 I think the really critical thing, albeit part of a
15 simple example is that that particular problem in this
16 case requires that staff at the district level were
17 familiar with the local area, had professional
18 training, had access to a variety of sources of
19 information including their own database, review that
20 material and make a judgment and arrive at a
21 determination of what an appropriate level of
22 information is. And I guess that's one message that I
23 think is very very important for the Board to
24 understand, that you can't do this on the basis of a
25 cookbook.

1 You can identify up to a point the kinds
2 of information that are available but, beyond that, you
3 have to rely on the professional staff making
4 professional judgments with guidance from a variety of
5 sources. And in terms of the evidence that you are
6 going to be hearing here on the later panels, I think
7 the point I would stress is secondly, that you can't
8 answer this question all in one place, you can't answer
9 it all in Panel 7 and it has to be answered in the
10 context of various timber management activities that we
11 are involved in.

12 So that you have to look at the basic
13 problem in the context of harvesting, renewal and
14 maintenance because in each one of those cases you are
15 dealing with a particular problem albeit one that may
16 be fairly repetitive in the area of the undertaking and
17 for which there may be generalized responses that can
18 be done on a fairly consistent basis, nevertheless the
19 necessity of having a decentralized organization that
20 makes local decisions which are bounded and guided by
21 overall direction is one that is, I think, very
22 important in the context of this kind of decision.

23 MR. FREIDIN: Perhaps we should mark that
24 as an exhibit, Mr. Chairman.

25 THE CHAIRMAN: Very well. That will be

1 Exhibit 300.

2 ---EXHIBIT NO. 300: Hand-drawn diagram depicting
3 decision-making.

4 THE CHAIRMAN: What are you going to call
5 that, Mr. Clark?

6 MR. CLARK: Mona Lisa 2. Decision
7 making.

8 THE CHAIRMAN: Mr. Freidin, would this be
9 a convenient place to take a mid-morning break?

10 MR. FREIDIN: Yes.

11 THE CHAIRMAN: Very well. The Board will
12 rise for 15 minutes.

13 ---Recess taken at 11:00 a.m.

14 ---Upon resuming at 11:30 a.m.

15 THE CHAIRMAN: Thank you, ladies and
16 gentlemen.

17 Just before we start, Mr. Freidin, the
18 hotel has notified us that tomorrow they have scheduled
19 this room for later on for an all candidates meeting
20 and could we vacate by four o'clock.

21 I suppose we don't really have to, but in
22 order to accommodate other interests as well, the Board
23 is suggesting that tomorrow we start at 8:30 since we
24 are all here anyways and continue on until four and try
25 and get in as full a hearing day as possible and then

1 Friday we will have the abbreviated day.

2 We have to make certain concessions for
3 this election, I think in fairness to everybody.

4 MR. FREIDIN: Mr. Chairman, there are
5 some documents there in front of you. I believe one
6 is the missing interrogatory. I don't recall the
7 number, but it is marked on there to the right of
8 there -- to your left, I am sorry.

9 THE CHAIRMAN: All right. That is
10 Exhibit 278.

11 MR. FREIDIN: And then there is a copy of
12 the witness statement, there are three volumes there as
13 well.

14 THE CHAIRMAN: All right. This will be
15 for the record copy; is that right?

16 MR. FREIDIN: That's correct and we will
17 be -- Ms. Blastorah said a page just fell out of the
18 witness statement.

19 MS. BLASTORAH: That little bundle that
20 is stapled together, Mr. Chairman, was tucked inside
21 the witness statement.

22 THE CHAIRMAN: All right.

23 MR. FREIDIN: And later today we will be
24 filing copies of some of the documents which were
25 referenced in the witness statement but which were not

1 reproduced for everybody.

2 Q. Mr. Clark, just before the break you
3 had indicated that you can make lists of the kinds of
4 information that you need but that you don't want to
5 create a cookbook. I am just wondering whether you
6 could explain what you mean when you refer to a
7 cookbook.

8 MR. CLARK: A. Well, I think this is an
9 issue that all organizations have to deal with and I
10 guess, from my point of view, the easiest way to
11 characterize it is to talk about in the context of a
12 balancing act. On the one hand you want people in the
13 field to exercise professional judgment, you want to
14 hire people that are well trained, intelligent, have
15 knowledge of local situations and can exercise good
16 judgment.

17 On the other hand, I guess the other part
18 of the balancing act is to have some degree of
19 compliance with overall corporate direction and it is
20 that balance that I think we are going to be referring
21 to throughout much of this particular evidence.

22 The cookbook approach is one where the
23 organization provides a great deal of detailed
24 direction, so much so that the staff at the field
25 level -- well, let's say that their ability to make

1 professional judgments is compromised by an unwieldy
2 amount of direction and I think most people are
3 familiar with this kind of a thing.

4 We do provide a lot of guidelines and in
5 Panel 8, which I should note is called Balancing
6 Professional Judgment and Ministry Direction, we talk
7 about the various tools that are available to resource
8 managers in the field to provide direction in making
9 decisions.

10 And I guess the point that I would make
11 is that there has to be a balance between those two
12 things and that if we try and provide too much
13 direction we really -- in too specific a way, we really
14 lose the benefit of having good field staff who
15 exercise judgment in local situations.

16 And I believe that's really the strength
17 of our organization right now, is that at the field
18 level I think we have achieved a pretty good balance.
19 We do provide direction, but certainly in my experience
20 the thing that characterizes the way we do business is
21 that we have people in the field who are familiar with
22 it, who have good training and who can render
23 intelligent decisions.

24 MRS. KOVEN: Excuse me. That all assumes
25 that you are fully staffed in each of the district

1 levels, that you have the right mix of experts, and you
2 have the right number of staff to carry out--

3 MR. CLARK: Yes.

4 MRS. KOVEN: --those functions?

5 MR. CLARK: That's a good assessment.

6 MRS. KOVEN: Is that the case in all
7 districts most of the time?

8 MR. CLARK: I think most of the time it
9 is, yes.

10 MRS. KOVEN: Okay.

11 MR. FREIDIN: Q. If situations arise in
12 a district, Mr. Clark, where a specific type of
13 expertise doesn't reside and somebody feels they need
14 some sort of further guidance on that, is there any
15 common approach to that sort of a problem taken in the
16 districts?

17 MR. CLARK: A. Well, yes there is and I
18 was somewhat guarded about saying are we fully staffed
19 everywhere at the appropriate level. Obviously in any
20 point in time we may have to deal with problems
21 relating to data collection or specific problems
22 relating to the resource base for which we don't have
23 appropriate expertise and there are a number of avenues
24 available to us that allow us I think to deal with
25 those situations in most instances.

1 First of all, at the district level we
2 tend to have people that, while they are qualified in a
3 particular area, it is a fairly broad qualification
4 because they are dealing with a whole range of
5 resources, but within the organization as a whole,
6 that's not necessarily -- the same situation doesn't
7 necessarily exist.

8 For example, in the regional office you
9 have a regional wildlife biologist, a regional
10 fisheries biologist, you have park specialists and
11 these people are there to provide additional technical
12 assistance to the field organization and in terms of a
13 spectrum of moving from generalist to specialist, they,
14 as you move through the system for example into the
15 region, you tend to find people who have a narrower
16 focus who then provide more specific advice to district
17 staff.

18 If you follow on up through that there
19 are other areas in the organization, I mentioned for
20 example fisheries research where you have people doing
21 fisheries research on Lake Superior, on a variety of
22 lake systems throughout the area of the undertaking who
23 can provide more detailed and specific information
24 concerning the fisheries resource and management issues
25 that relate to it.

1 In main office, likewise you also find
2 additional specialists who can provide additional
3 advice and, in some cases, direction to staff at the
4 district level and in my experience we use those
5 readily. You are always looking for -- as a district
6 manager, for example, you are constantly having to do
7 deal with your comfort level. You want to know that
8 the risk of harm is something that you can identify
9 reasonably and if there is any point in time where you
10 feel that your staff don't have the confidence to deal
11 with it, because you have responsibility I think the
12 normal tendency is to say: Well, did you touch base
13 with the region, did you talk to so and so in main
14 office, did you talk to Peter Colby about the pickerel
15 in such and such a place. And I think that -- you
16 know, I kept talking about the qualitative dimension,
17 the way we do business. That's very normal because if
18 you don't do that you are hanging out and if you have
19 to render that kind of a decision you want to know that
20 you have done this.

21 The other place where we can consult of
22 course is outside the Ministry. We may go to the ROM,
23 The Royal Ontario Museum, there are people there who do
24 studies on bats and some of them do studies on bats in
25 provincial parks in our districts. We know these

1 people, we have access to them and we can consult with
2 them.

3 There are people in universities, there
4 are people doing acid rain studies in Killarney
5 Provincial Park who are at the university but who can
6 provide us with information that may be relevant to a
7 decision we are making.

8 I guess the point I am making here is
9 that, as I say, I was somewhat guarded about saying we
10 are fully staffed in every area. I think that would be
11 a pretty hard committment to make, but at the same time
12 we do have access to a lot of other sources of
13 expertise that can assist us in making decisions.

14 And in my experience because -- well,
15 certainly my experience, as I say, it is dealing with
16 your comfort level. I think the same way that the
17 Board has to deal with theirs in these issues because
18 you want to know that you have had access to the right
19 experts and they have given you reasonable information
20 about the problem that you are dealing with.

21 And so, as I say, you tend to look to
22 your own staff initially and where you feel that or
23 they feel that they don't have enough information, then
24 you look elsewhere and I have listed some of the places
25 we might do that.

1 Q. Thank you. Mr. Clark, do you have in
2 front of you or with you Exhibit 5A?

3 A. I do.

4 THE CHAIRMAN: I am not sure we have it
5 in front of us. Are we supposed to, Mr. Freidin?

6 MR. FREIDIN: I spoke to Mr. Mander about
7 this and I just check with him during the break and he
8 said that he had advised the Board.

9 The first page supplementary
10 correspondence and basically it's a series of letters,
11 in particular, it is a letter from Mr. -- if you go
12 down a few pages you get a letter from Mr. Douglas to
13 Mr. Balfour at the Ministry of the Environment and the
14 part of that exhibit that I am interested in really is
15 the part which starts on page No. 7 of Exhibit 5A
16 and...

17 Does the Board have that?

18 THE CHAIRMAN: Yes.

19 MR. FREIDIN: Q. Now, on page 13 of that
20 particular document there is a list which is entitled:
21 This list is continually updated as additional types of
22 information become available.

23 And I understand that that list is in
24 fact reproduced as part of the witness statement
25 itself; is that correct?

1 MR. CLARK: A. That's correct.

2 Q. Which page will you find that at?

3 A. Page 88, Figure 5.

4 MR. FREIDIN: I just make that reference,
5 Mr. Chairman, in case there are some that don't have
6 their copy of Exhibit 5A with them.

7 Q. Now, perhaps speaking to the exhibit
8 itself, the full exhibit, starting on page 13 of
9 Exhibit 5A which is entitled Background Information,
10 Other Resource Features, Land Use and Values, could you
11 describe to the Board what that particular document is,
12 Attachment No. 2?

13 MR. CLARK: A. Well, what it is is a
14 listing of information on resource features, land uses
15 and values that are normally available for any timber
16 management unit.

17 I guess the point I should stress, lists
18 a number of points I should stress about what is on the
19 table and its derivation. The first is that this is
20 information that is normally collected by other
21 programs, as I think Mr. Freidin pointed out and I have
22 pointed out, in the general administration of those
23 programs and it is not necessarily collected
24 specifically for timber management purposes.

25 The next point I would make, particularly

1 in light of the example I used, is that the list is not
2 all inclusive, it is a point of departure.

3 Q. What do you mean by that?

4 A. Well, I guess getting back to what I
5 talked about earlier, it is a point of departure in the
6 sense this is the kind of information that is normally
7 available.

8 It doesn't speak to quality, quantity or
9 completeness, if you want. And so when you get
10 involved in a planning exercise, for example timber
11 management planning, this kind of information is
12 assembled as part of part one of the planning process
13 which is the assembly of background information.

14 Now, I know the Board hasn't been through
15 the timber management planning process, but this first
16 phase involves - I don't even want to mention Panel 15
17 because I know that it will be dealt with in more
18 detail there - but we will be introducing some notions
19 here and I guess the important one here is that you
20 have this kind of information, it is normally available
21 for any management unit in the district. As the first
22 stage in this process, you consolidate this kind of
23 information and I guess the point I was making earlier
24 is it is at that point that you start thinking about
25 the adequacy of your data.

1 Q. And in the evidence -- the witness
2 statement there is reference to minimum information
3 requirements. Is this list which you have described as
4 a list of the type of information which is normally
5 available, is that the same thing or is that something
6 different than what is referred to as minimum
7 information requirements?

8 A. This is a checklist of the types of
9 information normally available. It is not a minimum
10 information requirement and I think there is an
11 important distinction here, and I mentioned earlier it
12 talks about the kinds of information, it doesn't talk
13 about quality, quantity or specificity.

14 Q. And in the exhibit there is reference
15 in the first paragraph to a values map and I
16 understand, Mr. Kennedy, that within the timber
17 management planning process there is a requirement now
18 that a values map be prepared; is that correct?

19 MR. KENNEDY: A. Yes, it is.

20 Q. And I understand that that particular
21 values map and perhaps a little bit of the history
22 which went behind the development of the concept of a
23 values map will be dealt with by Panel 15?

24 A. Yes, it will be.

25 Q. I don't seem to have any problem

1 saying that.

2 And could you, Mr. Kennedy, however,
3 indicate to the Board or describe to the Board in a
4 general way at this time what a values map is and how
5 it fits in with this list which we find in Exhibit 5A?

6 A. A values map is where the information
7 that is shown in Exhibit 5A or was shown on page 88,
8 that information that is mappable is put on to a map
9 that is prepared during step 1 of the timber management
10 planning process.

11 It is something that has evolved since
12 the introduction of the new timber management plan so
13 it has only been in place for the last year and a half
14 and it has evolved from our experiences that we had
15 implementing the new manual. We found that there was a
16 wealth of information that was being pulled together as
17 part of the assembly of background information, and
18 that there was a need to summarize it and put it into a
19 form that we could communicate easily to others.

20 And the form that evolved was a values
21 map where we record the information that is available
22 in the district program files on to one single map as a
23 means of taking it forward to the public and showing
24 them the information that we have and asking them to
25 input and review that information and supplement it

1 where they know something different. And it is used in
2 the preliminary area of concern process and in the area
3 of concern process which is in latter steps of the
4 timber management planning process.

5 Now, we found it a very effective way of
6 communicating to the public and I should mention that
7 it is just evolving now. We do have the requirement, a
8 further discussion of the values map can be seen on
9 page 114 of the A document and the kinds of information
10 that we show are listed here on Figure 5 and I have got
11 a copy of a particular values map with me.

12 THE CHAIRMAN: Mr. Kennedy, when you are
13 putting forth a values map to the public as a means of
14 explaining what data is available, there is no
15 consultation with the public prior to the preparation
16 of the map at that stage, is there?

17 MR. KENNEDY: At that stage in the
18 process there has been some consultation in the formal
19 sense.

20 Of course, we have the on-going
21 consultation from day-to-day activities of our
22 involvement with our client groups, but at that time
23 the public would have been informed that the timber
24 management plan is being prepared and that is the first
25 public notice which is an invitation to participate in

1 the entire process and an indication of the time frame
2 which the process will cover.

3 At the second notice, which is an
4 invitation to come to an information centre, is the
5 first time that the public has an opportunity to see
6 that information displayed.

7 MR. FREIDIN: Q. And in terms of the
8 source of information then, what are the sources of
9 information which are used to prepare this values map?

10 MR. KENNEDY: A. The primary sources are
11 the information that is available in the district
12 program files and is recorded first on to that values
13 map. Where information is found to be deficient, then
14 other sources are consulted and that information is
15 also added to the map and then we encourage the public
16 to bring other items to our attention.

17 Q. And you said you have got an example
18 of a map or of a values map which has been prepared?

19 A. Yes, I have an example here from the
20 Timmins forest that I would like to show the Board and
21 I would like the Board to come down and have a look at
22 it.

23 Q. All right. And just before you do
24 that, can you just advise me: Can a values map be
25 updated or changed as a result of public involvement in

1 the process?

2 A. Most certainly. It is meant to be an
3 on-going collection of information, as I say -- as I
4 had indicated, a summary. It is viewed as a map that
5 would be continually updated throughout the planning
6 process and indeed throughout the whole term of the
7 plan, and I think it would be prove being very valuable
8 for the starting of the next planning period -- sorry,
9 next planning term.

10 In fact the information never really go
11 out of date, per se, more information can be added.

12 Q. All right. Perhaps you can put that
13 map up in a location where the Board could come down
14 and look at it, as well as other parties I guess who
15 would like to see it.

16 A. This is a map from the Timmins
17 forest. It is at a scale of 1:100,000 and the title on
18 this map is Timmins Forest Area of Concern Map. It is
19 a map that we would refer to as a values and features
20 map. The difference in name here is, as I had
21 indicated, we were just evolving the concept and this
22 particular district was chosen to put the title Area of
23 Concern on.

24 In this case it's really more --

25 MS. MURPHY: Excuse me, I think Mr.

1 Kennedy is going to have to speak up a little louder
2 for the reporter.

3 THE CHAIRMAN: I think since we are all
4 crowding around, could you perhaps use the microphone.
5 Well, try shouting.

6 MR. WILLIAMS: Maybe you should come
7 around to this side of the table.

8 MR. KENNEDY: There was a few features I
9 was going to point out.

10 Mr. Green, could you point out a few
11 features for me.

12 THE CHAIRMAN: Well, hold on a second, we
13 have got to get this all down.

14 Listen, why don't you take this map, put
15 it on the easle, come around the other side here and
16 hold the mike.

17 MR. FREIDIN: If we only had a portable
18 mike it might make it easier to do this.

19 MR. KENNEDY: Okay. I started to
20 indicate that this is map at a scale of 1:100,000 and
21 to give you some idea of locations, Timmins is here in
22 the upper left-hand corner and the area that is
23 outlined in yellow and black is the management unit
24 boundary and that is of the Timmins forest which is an
25 FMA.

1 What the district has done here in
2 connection with a company has recorded the information
3 from the individual data files that are within the
4 district and assembled them on to the one spot. Some
5 of the more prominent features that you can see on
6 here, perhaps the first ones that grab your eye are the
7 large numbers.

8 This is a reference to the district land
9 use guideline areas which are consulted during the
10 early stages of the assembly and analysis of background
11 information and also get recorded in a table in the
12 timber management plan.

13 Other features that are shown on this
14 particular example that we have brought along are moose
15 concentration areas that are indicated in a red and
16 brown hatched line -- hatched and shaded line. It is
17 an indication of where moose have been seen from
18 previous sightings which would be recorded both in the
19 district files and some information would have been
20 brought forward through people that are in the field.

21 Other features that are shown are more
22 point source locations such as: Trappers' cabins are
23 shown by green triangles in this particular map and you
24 can see there are several of them in here and cottage
25 locations are shown, in this case, in red -- sorry, in

1 green circles.

2 It is one of the ways of portraying the
3 information to people. Other variety of information
4 that is shown is the wildlife habitat or wild rice
5 areas -- sorry, water fowl habitat being associated
6 with the wild rice and it has commonly showed different
7 types of fisheries information on here as well in terms
8 of colour coding lakes. In this case, lake trout lakes
9 are shaded in in blue on the map. It becomes a very
10 easy way in which to portray a lot of the information
11 to the public and ask them to come in and add to that
12 information base that we have.

13 We found it very difficult -- in my
14 experience I can speak from, and I found it very
15 difficult in which to share this information with the
16 public. At the information centres that we have, it is
17 not uncommon to have in the neighbourhood of 40 to 50
18 maps in a room and trying to shuffle through them to
19 deal with each individual's own location.

20 I found that individuals when they come
21 in usually they are not interested in the entire
22 district, they are interested more so in one individual
23 township or an area where their particular cottage lot
24 or trapper's cottage may be and they are interested in
25 focussing in on here. This is sort of an index map

1 which allows them to come up and see where the
2 information is and follow through the planning process.

3 There is a companion document that goes
4 with this map, is a description of what these features
5 are and an indication of the significance of them.
6 That's usually -- or can be filed in a variety of ways.
7 It may simply show up as separate documentation of a
8 more detailed map. This particular district uses maps
9 at a scale of 1:50,000 to supplement this information
10 and they provide a brief description of each one of the
11 features that are there within the township.

12 The way in which this information is used
13 then is in the timber management planning process to,
14 first of all, identify preliminary areas of concern and
15 then subsequently the more detailed planning to the
16 area of concern process.

17 It would be conceivable to only be
18 looking at one corner of this map if areas of
19 operations are planned for the five-year term for
20 timber harvest. So although the information for the
21 whole district is shown and I am not familiar with the
22 Timmins forest so I will hypothetically say that
23 perhaps in the bottom left-hand side is where the
24 activities will take place for a five-year term and, in
25 that case, this information would be used in

1 identifying primary road corridors, for instance, and
2 for more detailed information on area of concern
3 planning where additional information may be collected
4 if the existing base isn't adequate enough.

5 MR. FREIDIN: Q. I understand that when
6 you get into the area of concern planning process there
7 are individual maps, in many cases, which will more
8 clearly deal with the specific issue being addressed by
9 that area of concern?

10 MR. KENNEDY: A. Yes, that is correct.
11 The area of concern planning process and also in the
12 planning of the operations, both in the selection of
13 areas that may be operated on, the common scale of map
14 in use is 1:15,840 which is the FRI scale maps that
15 were talked about in Panel 3, and on those maps this
16 information is commonly copied over to that and worked
17 on in more detail.

18 It is important particularly when you are
19 dealing with point -- what I call point source
20 information, such as a trapper's cabin, to be able to
21 more correctly determine on which bay of a particular
22 lake and on what portion of the bay that information is
23 on.

24 In an area such as moose concentrating
25 areas, on some of the more detailed maps it may -- the

1 line -- where you draw the line is rather subjective
2 and it becomes difficult at times to know where to put
3 the line on an area.

4 MR. FREIDIN: And all of those maps, Mr.
5 Chairman, will be part of Panel 15.

6 MR. KENNEDY: Yes, we will be dealing
7 with the subject of values maps in much more detail in
8 Panel 15, and we would prefer to stop now as opposed to
9 repeat some of the evidence that we will be giving
10 later.

11 MR. FREIDIN: May that be marked, Mr.
12 Chairman.

13 THE CHAIRMAN: Exhibit 301.

14 ---EXHIBIT NO. 301: Example of Values Map from Timmins
15 Forest Management Unit.

16 MR. FREIDIN: Mr. Chairman, I would ask
17 for permission to take this particular exhibit, I guess
18 at the end of the week, and have a copy produced as
19 this is the only working copy from that particular
20 district for that community.

21 THE CHAIRMAN: Very well.

22 MS. SWENARCHUK: Excuse me, could I have
23 the date of that map?

24 THE CHAIRMAN: The date?

25 MS. SWENARCHUK: Yes.

1 THE CHAIRMAN: I don't know. What is the
2 date, Mr. Kennedy, of that map? Does it have a date?

3 MR. FREIDIN: It is a current map, I
4 think.

5 MR. KENNEDY: It is a current map. I am
6 not sure of the exact date, I believe it is prepared
7 one year ago. I will check that out and let you know.

8 MR. FREIDIN: Q. Mr. Clark, in looking
9 again at page 13 of the Exhibit 5A, in the third
10 paragraph, third line the point is made that one would
11 not necessarily expect all the features, uses or values
12 to exist in any individual management unit, and that
13 particular comment refers to the list which is found on
14 page 13, 14 and 15.

15 And perhaps you could just advise me why
16 that is so? Why wouldn't you expect all those things
17 to be shown?

18 MR. CLARK: A. Well, it is simply a case
19 that some of these things don't exist in all districts.
20 In Wawa District where I was district manager we had
21 caribou, for example, but there would be many other
22 areas of the area of the undertaking or other districts
23 that wouldn't have them. So that just in practical
24 terms some of those things don't exist in all
25 districts.

1 Q. Now, Mr. Clark, you have referred to
2 your comfort level as a district manager a couple of
3 times, the sort of things that you might do in order to
4 be satisfied or feel comfortable that the information
5 that was required in fact had been either obtained or
6 consulted.

7 What about people from outside the
8 Ministry of Natural Resources, and I include in that
9 interest groups or the public who might have a specific
10 concern in an area. Is there anything that is done to,
11 in fact, assist them in terms of their comfort level?

12 A. Well, I think Mr. Douglas pointed out
13 in earlier evidence in Panel 1 that we have a fairly
14 standard resource management planning process and there
15 is a couple of elements of that that are really quite
16 important here.

17 One is that in all cases there is a
18 structured form of public consultation and, of course,
19 you will be hearing quite a bit about that in the
20 context of timber management planning but, in all
21 cases, provision is made in the planning process for
22 the public to make input.

23 The other component is that there is a
24 requirement to identify the basis on which
25 recommendations or decisions are made through

1 documentation and that, again, will be expanded on in
2 the context of the timber management planning in later
3 evidence.

4 But I guess the point I am making here is
5 that the values map is a reflection of that, that is a
6 consolidation of information that is normally
7 available. But the first step in the process, once we
8 have consolidated that material and mapped it, is to
9 take that to the public by way, in this case, of a
10 formalized planning process that involves consultation.

11 The other point -- so there is obviously
12 this formal mechanism in place in the planning process.
13 The other point that I want to mention now and I will
14 be stressing probably later is the fact that at an
15 informal level, particularly in the districts, there is
16 ample opportunity and I can tell you from experience
17 that it is exercised on a regular basis, at least from
18 people in the local area, to take advantage of the
19 accessibility of MNR staff from the district manager on
20 down, and that is part of the culture, if you want, of
21 the Ministry organization in the field level, that we
22 are visible, we are accessible and, in most cases,
23 people in the district area know who we are. And so
24 while we make this provision for formal input which
25 gives people the opportunity to look at information we

1 have, I guess the other point I am making is that there
2 is lots of other opportunities and, in my experience,
3 they are taken advantage of in most situations.

4 So that if you are talking about comfort
5 level, when people are uncomfortable, I guess what I am
6 saying is that at least in my experience they normally
7 let me know.

8 MRS. KOVEN: Do you ever have any
9 situations arise when you are developing the values map
10 or after you have put it together and the public looks
11 at it, and a member of the public thinks that there is
12 something wrong with the map, they think you have left
13 something out? Do you then go about and verify that
14 information?

15 MR. CLARK: Yes, and that is the purpose
16 of the exercise. We had just sort of got into the
17 process of producing values map when I was a district
18 manager in Wawa and it was almost, not so much because
19 at the time we were required to, but simply because we
20 had to find a reasonable way of portraying the
21 information we had and getting people to respond to it.

22 And it wasn't uncommon for people to
23 attend open houses, look at the material and question
24 it and, in some cases, verify that what we had was
25 right and, in other cases, to supplement it with new

1 stuff, to put it in the vernacular.

2 It may be that a cottager's association
3 on White Lake knows something that we don't, maybe an
4 archaeological site, something like that, that we had
5 no knowledge of and so it wouldn't be uncommon for them
6 to draw that to our attention. And then, of course, in
7 that case we would probably go to another ministry to
8 get confirmation or to notify them so that they could
9 take action.

10 But yes, it is not uncommon and that of
11 course is the purpose for doing it.

12 MRS. KOVEN: I guess the archaeological
13 example is sort of simple, it would be more difficult
14 if they claimed the lake was fished out or it was a
15 situation where you couldn't just observe whether --

16 MR. CLARK: That's right, and some of
17 these issues they just don't sort of jump out.

18 One of the things I guess I am going to
19 come back to is that the collection of data is ongoing,
20 our relationship with the public, particularly in the
21 district itself is ongoing and so there is all kinds of
22 issues. Some are old chestnuts that we have been
23 dealing with over a long period of time, and I know Mr.
24 Martel will know about some of these, they don't go
25 away.

1 And a complicated issue, for example, the
2 health of the fishery and whether or not our
3 information is correct or theirs is correct is
4 something that we deal with on an on-going basis quite
5 aside from timber management planning. It wouldn't be
6 uncommon for us, for example, to meet on an annual
7 basis with a cottager's association or a tourist
8 association on a particular lake to discuss problems
9 and issues that related to the fishery, for example.

10 So I am not sure whether I am answering
11 your question there. Yes, it can be more complicated
12 than just an archaeological site and it may not be as
13 simple to resolve as simply contacting another
14 ministry, but I guess that is part of what I am going
15 to be talking about when I talk about the sort of
16 qualitative characteristic of the district and the way
17 we do business. This doesn't just start and stop as
18 the planning process starts and stops, it is an
19 on-going process because we are there and we are
20 accessible and people know who we are. Without getting
21 into individual cases, it is hard to be more specific
22 than that.

23 MRS. KOVEN: My feeling, looking at the
24 values map, is that it is very -- it looks to me like
25 it would be indispensable in terms of making--

1 MR. CLARK: It is.

2 MRS. KOVEN: --the kinds of decisions you
3 are making. But, at the same time, I think it would
4 also excite the public interest when people come in and
5 say: Oh, well, you are absolutely offbase here, there
6 haven't been fish in that lake for years, or it seems
7 to me that it works both ways. I would think that it
8 does excite more public interest and I am just
9 wondering how you handled that.

10 MR. CLARK: Well, the way we handle it,
11 and I think Mr. Kennedy would be able better able to
12 answer this. I can provide a partial answer here. We
13 do hold open houses. The public come and our staff are
14 there and they meet with the public and discuss these
15 issues with them and if, in the course of these
16 discussions, more dialogue is required, then we can
17 follow up with that and, as I say, some of these things
18 aren't resolved simply because we have an open house,
19 have a meeting, throw people some information in a nice
20 crisp map and then everyone walks away totally
21 knowledgeable. That is not necessarily the case in all
22 instances. It may be that the dialogue is fairly
23 continual.

24 MRS. KOVEN: Well, I am sure that the
25 public would feel you need some convincing, sometimes

1 in some areas --

2 MR. CLARK: Absolutely. Tourist
3 operators may have different impressions about the
4 health of a fishery on a particular lake than the
5 information we have as a result of lake surveys and
6 creel census data.

7 And that may mean that we have to meet
8 with them quite aside from any formalized structure to
9 discuss in more detail what our evidence is, where it
10 came from and how valid it is.

11 MR. FREIDIN: I am just wondering if I
12 could just sort of address that general area to a
13 couple of the witnesses.

14 Q. First, Mr. Pyzer, you are a district
15 manager. Could you perhaps address this matter based
16 on your experience?

17 MR. PYZER: A. I think maybe I can give
18 you two examples, a fairly recent one, but using the
19 tourist industry as one example. Outside of the formal
20 timber management planning process, there are many
21 tourist operators, certainly in the Kenora district, I
22 would say on average we deal with 30 times, 35 times a
23 year outside of forest management.

24 They have to come in 12 times a year to
25 pick up their fishing licences, their wildlife

1 licences, so there are 12 opportunities in the course
2 of a year that we see them. We put on formal meetings
3 once a year with every tourist operator in our
4 district. We make it a point that every conservation
5 officer must visit at least once every tourist operator
6 in his patrol area. We go out and do regular
7 inspections at those tourist camps.

8 The district manager and supervisors, we
9 make it a point all summer long once a week to visit a
10 tourist camp operator and see his kinds of operations.
11 And I went through and actually took a look at that and
12 there are at least, in many cases, 30 times a year when
13 we see that particular individual, and when we go out
14 and see him we are not talking about a rigid schedule,
15 we are really interested in any concern he wants to
16 bring forward.

17 Now, the example was tourist operator,
18 but Grassy Narrows Indian Reserve happens to be in
19 Kenora district. Steve Fobister, the chief of Grassy
20 is a very good and close friend of mine and Steve does
21 not hesitate to call me on any matter, whether it is
22 the fact that cheques haven't come in terms of extra
23 fire fighters to the reserve, they missed -- the mail
24 didn't come in on Tuesday and were the cheques in the
25 mail.

1 Whenever we do those sorts of things -- I
2 would almost a hazard a guess that every time he comes
3 to Kenora he gives me a call and says: Let's go out
4 for lunch or for dinner, and it is not structured but
5 we talk about: Are you spraying in and round the area,
6 what is happening up there, or the fact that people
7 have flown into Delaney Lake or Lennon Lake or there is
8 a particular problem.

9 And I think Cam has made an extremely
10 good point, is that we don't rely on those formal
11 meetings in terms of the timber management plan. They
12 are extremely important and they are good for people to
13 come forward, but I would almost go so far as to say
14 that they are almost a check that everything that
15 people have been telling us all year long and for the
16 past 10 or 15 or 20 years, in fact we have heard them
17 and we have demonstrated on those maps.

18 MR. MARTEL: Can I ask a question,
19 though. You are giving examples of where you deal with
20 a stakeholder on a daily basis but there is a much
21 wider group of people whose interest might not be
22 focused, let's say, to tourism or Mr. Clark mentioned
23 moose hunting and moose licences if he wants to talk
24 about one that causes everybody problems.

25 But how do you get at the larger

1 population which does have, let's say, a specific stake
2 in terms of a tourist operation and the cynicism that
3 you can't fight City Hall? Is that still there or is
4 that slowly or gradually petering out? That is a
5 two-part question really.

6 MR. PYZER: You know, I appreciate the
7 question, it is a really good one. I think when we
8 break down our stakeholders, if you will, and my staff
9 don't go around talking about them as stakeholders, I
10 mean they are --

11 MR. MARTEL: People.

12 MR. PYZER: Whoever, I don't know who the
13 public is anymore, we have refined that so far down.
14 Anglers and hunters, we have a 500-member angler and
15 hunter group in Kenora.

16 I deal with some of the fellows on the
17 executive, I would hazard to guess 50 times a year in
18 terms of anglers representing that group of -- that
19 they are not members of OFAH. This isn't the OFAH
20 group, but if you want to talk OFAH, the past president
21 of the OFAH happens to be a lawyer in Kenora.

22 And, again, I think every advisory
23 committee that we establish in Kenora district we have
24 Jim Hooks sitting on that and providing us with his
25 advice. Jim calls me on a constant basis, one on one

1 to the district for information and to provide us with
2 data.

3 I really don't know anymore though who
4 the man on the street is because we have refined that
5 stakeholder list and criteria so fine now that I think
6 someone gets trapped everywhere, if in fact they want
7 to be trapped or they do have some affinity for the
8 type of thing that we are doing.

9 THE CHAIRMAN: Of course issue a licence
10 before you trap them.

11 MR. PYZER: Pardon me?

12 THE CHAIRMAN: Of course issue a licence
13 before you trap them.

14 MR. PYZER: Yes.

15 MR. CLARK: I would tend to agree with
16 Mr. Pyzer. I don't think I could say it any better.

17 MR. FREIDIN: Q. I am just wondering
18 before we leave that, Mr. Kennedy, dealing with the
19 original issue which was raised -- just one moment,
20 please.

21 I wonder if you can comment on the
22 public's ability to have input into this map and to
23 update it?

24 MR. KENNEDY: A. What certainly does
25 happen, I am aware of several situations I was involved

1 with where during open houses or indeed through formal
2 information centres that were being held in conjunction
3 with the timber management plan, where members of the
4 public came in and volunteered new information.

5 Sometimes it is reassuring, the
6 information that we already know, occasionally it is
7 correcting information. I can recall a situation where
8 an eagle's nest was brought to our attention. We had
9 it on the right bay -- on the right lake, we had it on
10 the wrong side of the bay. So it was a very crucial
11 piece of information to have, was to have it confirmed
12 in its correct location.

13 When I say confirmed, most information
14 that does come in, we like to have some verification of
15 it and we are looking at means of having that
16 verification by one of our own staff members or
17 certainly by a second source.

18 I can recall a situation in Sioux Lookout
19 District that I was told about and observed where a
20 heron rookery had been placed on a values map and
21 subsequently the following season the heron rookery
22 picked up and moved about a quarter of a mile away and
23 that information was relayed back to us and, again, we
24 changed the map in that regard.

25 I would say we are always open to new

1 information and constantly seek it in all our contacts
2 with the public. So it does in fact have a change on
3 the values map being kept updated.

4 Q. Mr. Clark, you referred in your
5 evidence to a formal structure and you have also
6 referred to obtaining information perhaps through other
7 less formal means. In fact, you refer to that on page
8 87 of the witness statement. It is referred to in
9 Section 3.5.

10 I don't really think I have to take you
11 to the actual words, but you indicate that this
12 informal contact with the people within the district
13 enhances the two-way flow of information concerning the
14 resources of the district and often contributes to a
15 better understanding or appreciation of the qualitative
16 dimensions of the resource management issues at the
17 level of the management unit. And I think you and some
18 of the other witnesses have addressed that particular
19 matter.

20 Can you tell me, when you have that sort
21 of relationship or the existence of that level of
22 understanding, is that something which is always made
23 apparent when one reads a timber management plan where
24 in fact you have resolved an issue that has arisen from
25 one of these contacts?

1 MR. CLARK: A. I don't think it is. I
2 remember when I wrote that I said: Well, that sounds a
3 little mushy, the qualitative dimensions of problems,
4 and yet it is really the hallmark of the way districts
5 do business, is that they are close to people
6 particularly at the district level; they are
7 accessible. And I keep stressing that because I
8 believe it is true and I think that probably Mr.
9 Pyzer's in a much better position, you know he is
10 closer to it to speak to that.

11 I am lost. Can you...

12 Q. Yes, you were just speaking of
13 whether you can find within the timber management plan
14 is it always apparent that these conflicts, how they
15 have been dealt with --

16 A. Oh yes. So many of the issues that
17 we are dealing with on an on-going basis in the
18 district I think, to a large extent, are solved before
19 they happen, and I think Mr. Pyzer mentioned the fact
20 that we have numerous meetings with, for example,
21 tourist operators, the local Rod and Gun Club, Reeves
22 of Townships and on and on it goes, on a regular basis
23 and we also have them specifically as a requirement of
24 timber management planning.

25 But to the extent that we have an

1 on-going working relationship with these groups, many
2 of the issues that might arise have, to a large extent,
3 been considered prior to the point where we actually
4 get involved in timber management planning.

5 Now, that's not to say there is no
6 documentation of this sort of thing because normally in
7 the course of meeting and discussing issues with groups
8 we record and formalize it through letters and so on.

9 But I guess the point I am really making
10 here is that long before we get involved in a specific
11 timber management planning exercise we have developed a
12 sensitivity to the concerns of various individuals in a
13 particular area simply because we work in that
14 environment and we are in contact with them.

15 Q. I am wondering then, Mr. Pyzer, could
16 you comment on that and perhaps deal with a situation
17 where an issue may arise or be brought forward early in
18 a timber management planning process and would the
19 documentation always make it apparent exactly how that
20 particular issue got resolved?

21 MR. PYZER: A. I am trying to think of
22 some examples. There really are -- concerns about
23 fly-in tourist operators is probably, and tourist
24 operators that are remote is one good example.

25 By the same token, there are areas -- in

1 fact, we just flew up with a commercial fisherman a
2 week or two ago. Commercial fisherman in our district,
3 he flies, I don't know, 80 or 90 miles to the north,
4 tremendous expense, he has got to fly in every day to
5 check his nets, and that is a requirement that we make.
6 In that case, he in fact would like to see road access
7 into the lake.

8 Now, that's not in part of any timber
9 management plan, it is not even part of the timber
10 management planning process. We happen to be in there
11 for another reason, commercial fishing and quota
12 allocation and in trying to work with that particular
13 individual. But we know now, having gone in with him,
14 that if we ever have the opportunity to -- and when we
15 are harvesting wood in that particular area, that in
16 fact he would like a road in there. From a social
17 economic perspective, it is going to make his business
18 significantly more cost effective.

19 Now, we haven't recorded that probably
20 anywhere but the fish and wildlife supervisor was in
21 the aircraft with him, he was in the boat lifting the
22 nets with him, they were talking about that issue and I
23 know about it because that's -- as Cam says, that's the
24 way we do business in the district.

25 You come back and we were out with one of

1 the interest groups, one of the clients, one of the
2 stakeholders in the district, and we are trying to help
3 this person out. And I would hazard to guess that
4 without any piece of correspondence all of the fish and
5 wildlife people that are involved in that activity know
6 that for that particular individual's licence, if and
7 when the opportunity comes to put a road in there,
8 prior to any values maps being established or anything
9 else, if that road could go by there without causing an
10 impact to anyone else, there is a tremendous benefit to
11 that individual and we do that constantly all the time.

12 MR. MARTEL: Could I ask a question.

13 MR. PYZER: It is probably a bad example
14 because you will not find a piece of correspondence on
15 file, but we know that intuitively that that individual
16 has that interest and that's what he would like.

17 MR. MARTEL: I was going to ask this
18 question earlier because I think Mr. Clark made the
19 same statement, that you have material that you carry
20 around in your head as an individual, you don't record
21 it anywhere. Can that not create problems for you that
22 you, a forester moves out and, let's say, a biologist,
23 they take with them the information and the problem
24 comes to the floor again and somebody says: Well, look
25 I brought that to your attention two years ago.

1 And I was going to ask, Mr. Clark, why
2 you wouldn't record that. It wasn't the database, but
3 he said - I think it was Mr. Clark - said it's
4 information you have that's available to you. Would it
5 not make sense to record that so in fact you do have it
6 down the road?

7 One of the problems we saw when we were
8 on our site visit was a complaint about access -- or
9 not access, with a culvert and they said it had been
10 ongoing for ten years, that could create some friction
11 down the road. Is there no way of putting that
12 together?

13 MR. CLARK: I guess the way I would
14 answer is we don't consciously not record problems and
15 issues. There is no doubt that people do carry things
16 around in their heads, we all know that, and when
17 anyone leaves any job there is a problem with
18 continuity.

19 I think, however, that from many or most
20 of the issues that arise in the district there is
21 material on file that speaks to those issues. And my
22 experience was, for example, when I went to Wawa
23 district I was a blank slate, I had to get up to speed
24 right away on a lot of issues and I was able to do that
25 through consulting with my staff, referencing the file

1 system, talking to people in the region, and I
2 obviously didn't get all of that information but I got
3 a substantial amount of it.

4 And there are some instances where it
5 won't all be recorded, and I think we are just being
6 honest about that.

7 THE CHAIRMAN: Isn't there a danger of
8 becoming a slave to the process if you are going to
9 spend all your time recording things you are going to
10 be spending less time solving the problems?

11 MR. CLARK: Well, I think so. I think
12 you have to achieve a balance. And, you know, I guess
13 we are going to use that word a lot here and I think as
14 a district manager, as an administrator where you are
15 trying to make decisions effectively and efficiently,
16 you have to make judgments about how far you are going
17 to go in any particular case.

18 MR. KENNEDY: If I could just add here.
19 The idea of foresters carrying around information in
20 their head and not being recorded anywhere has been
21 brought to our attention before, and one of the
22 responses that the Ministry has come up with is to
23 formalize a unit forester's memo book which is intended
24 to stay with the management unit and is a spot where
25 the unit forester records information, something along

1 the line of what Mr. Pyzer has talked about but more
2 specifically some of the forestry-related data and it
3 is a spot where the forester could record both
4 observations and experiences he has had with both the
5 physical part of the environment and also interaction
6 with other groups.

7 And that's been -- I believe there is
8 reference to it and filed, I think it is Panel 2, in
9 reference to the Baskerville action plan.

10 MR. MARTEL: I think it is in here as
11 well, one of the documents here. I am just wondering,
12 is that actually occurring or is that just occurring in
13 some areas and not in other areas?

14 MR. KENNEDY: It is in its infancy now
15 and it's expected to be phased in along with the new
16 timber management planning process, that once we have
17 gone through that initial stage of the -- not the
18 initial stage, once we have gone through the stages of
19 public consultation, the expectation is that we will be
20 up to speed with information the public has to share
21 with us and vice versa, and from there on the variety
22 of ways in which we can keep track of the comments and
23 concerns that are raised is partly through that unit
24 forester's memo book, also through the continual update
25 of the values map and then through the regular on-going

1 contacts that both Mr. Clark and Mr. Pyzer referred to.

2 MS. SWENARCHUK: Mr. Chairman, I would
3 just like to clarify something here. I would assume
4 that we will be having a longer discussion on the
5 public consultation process at some point, will we?

6 MR. FREIDIN: Yes.

7 THE CHAIRMAN: And, Ms. Swenarchuk, you
8 unfortunately have not been here for all of the
9 hearing, but anything you do not hear in any particular
10 panel you will hear in Panel 15.

11 MS. SWENARCHUK: I will make a note of
12 that.

13 MR. FREIDIN: Q. Somebody, I can't
14 remember which witness it was now, referred to as the -
15 it may have been you, Mr. Pyzer - about the timber
16 management planning process, the formal process itself
17 is really a check on whether in fact you got certain
18 information or you understand information that you have
19 obtained through the year.

20 Does that particular comment that the TMP
21 is a check, does that address in any way Mr. Martel's
22 question or concern about losing information when there
23 is turn-over in staff?

24 MR. PYZER: A. Absolutely it does and I
25 have to say from my experience that - and I truly

1 believe this - that fewer and fewer people are showing
2 up at our open houses, particularly the first one. And
3 I honestly believe that the reason that they are
4 showing up fewer and fewer in number is because by and
5 large when you have dealt with someone on a day-to-day
6 basis or a weekly or a bi-monthly basis and you see
7 them so often as, in all honesty, most of us do at the
8 district level, and you have been able to reach - and
9 this is really corny - but we don't get into the
10 processes of writing memos to file, we are almost down
11 to a gentleman's agreement, we have a handshake.

12 We met face to face in the district and
13 we believe each other and we have an agreement. And I
14 honestly believe that most of our interest groups at
15 the district level are satisfied now, that when they
16 have come to these processes in the past and they have
17 taken a look at that values map, we have accurately
18 reflected it. If we haven't, they certainly tell us
19 about it.

20 But I truly believe that fewer and fewer
21 people are showing up at those meetings because they
22 feel that their interests and their values have been
23 already identified in these other processes and they
24 are fairly satisfied. In all honesty, I personally
25 feel that if no one shows up at that first meeting, if

1 we can get that, that would be the ideal.

2 I don't know want to see 5,000 people at
3 that first open house. I would rather see zero with
4 the belief that we front ended that process and we have
5 dealt with those concerns and they are quite happy with
6 what we have done.

7 Q. Thank you. Mr. Clark, could you turn
8 to page 66 of the witness statement, please, 266A.

9 Now, on that page in paragraph 10 you
10 list the characteristics of the district organization
11 that facilitate data collection and analysis at the
12 management unit level, and I think you probably touched
13 on some of those, but as -- page 66 of Volume 1.

14 THE CHAIRMAN: It is page 66 of Exhibit
15 266A.

16 MR. FREIDIN: Q. In paragraph 10 there,
17 Mr. Clark, you refer to the characteristics or list the
18 characteristics of the district organization that
19 facilitate data collection and analysis at the
20 management unit level. And you have probably touched
21 on some of those, but as our own sort of internal check
22 could you perhaps go through that list and sort of
23 expand where it is required in order to explain those
24 matters or characteristics which you haven't dealt
25 with?

1 MR. CLARK: A. Yes. I think a lot of
2 these characteristics will become somewhat more clear
3 as we go through the evidence but, as I said earlier, I
4 was rather anxious to get at some of this material
5 because while it is very simple, or appears to be, it
6 is really fundamental to the way the Ministry operates
7 at the district level. So I will do my best to try and
8 provide you with some examples of what I mean.

9 The first one is: The district is the
10 program delivery unit which is, I guess, our form of
11 jargon and I know that Mr. Monzon and Mr. Douglas
12 already talked about the organizational structure of
13 the Ministry.

14 It may be helpful for me just to sort of
15 conceptualize for you where the district fits in. I
16 guess the way -- I was trying to think of a simple way
17 of doing this and I think there are two broad functions
18 that most organizations get involved in. One is what I
19 would call the deciding function which is deciding what
20 do to, where to do it, how to do it and how much to do,
21 and that has a lot to do with policy development and
22 the development of strategic direction.

23 And at the other end, if you want, of the
24 spectrum is the doing end of things, program delivery.
25 And I like to think of this as a spectrum and I think

1 you should recognize that all levels of our
2 organization are involved in both deciding and doing.

3 But if you take the three levels that
4 were spoken to in earlier evidence, main office
5 obviously fits closer to the deciding end. That's
6 where we decide what to do, where to do it, how much to
7 do and it is the provision of broad strategic direction
8 for the organization as a whole.

9 The regional office fits somewhere in
10 between. Obviously they have got their feet in the mud
11 a little bit more because they are acting as a bridge
12 between the main office function and the districts, and
13 then the districts are obviously toward the doing end
14 of things. And I guess that's the distinction I would
15 make.

16 If you go further down through the
17 administrative structure of the organization, you have
18 silviculture camps, parks, junior ranger camps and a
19 variety of other things like that which are even more
20 doing oriented.

21 So that if you look at the -- when we say
22 the district is the delivery level, it is the part of
23 the organization that actually acts on the objectives
24 that have been established in strategic land use
25 planning, district land use guidelines, resource

1 management plans and so on, and it takes the actions
2 that are necessary to put the objective established in
3 those plans which were spoken to in Panel 1 into place.

4 And I always refer to it as the whirr of
5 activity in a district. If you spend any time there,
6 you may think they are out in the boonies but they are
7 busy and they are busy running provincial parks,
8 operating junior ranger camps, planting trees, doing
9 creel surveys, doing lake surveys, doing operational
10 surveys, doing timber management plans, doing fisheries
11 management plans, doing enforcement and so on. So it
12 is a very operational orientation.

13 I don't want to over-emphasize that
14 because obviously as a district manager and as a
15 supervisor you have very fundamental concerns about
16 policy and direction because you are at the receiving
17 end of a certain amount of that and you have to be
18 cognizant about it and feed back into the organization.

19 But I guess the important thing I would
20 make -- the point I am making here, and I think you
21 will see it from the comments, particularly from the
22 other panel members, is that we are at the doing end of
23 it, or I was, and the district people, I always say,
24 have their feet in the mud.

25 And in terms of data collection, I think

1 it is important to have this idea in your mind because
2 we are not sitting in Toronto, we are not sitting in
3 the region, we are not sitting in Thunder Bay, we are
4 there and so you are much closer to the resource base
5 you are working with, you are much closer to the people
6 that are going to be affected by your decisions, at
7 least the ones that are locally based. And I think as
8 a result of that you have a greater sensitivity and
9 greater access to information.

10 The next point, district office and staff
11 are decentralized and accessible to local residents. I
12 used the example in the paper of Wawa District because
13 I have been there and it is a big area, it is
14 2.3-million hectares roughly and that has some sort of
15 dimensions in the order of about 150 miles by 150
16 miles, it is a big area.

17 Now, in that area there are only 9,000
18 people, more than half of whom, say, or around 5,000
19 live in Michipicoten Township or the Town of Wawa.
20 So you are dealing with a vast relatively remote area.
21 You are not dealing with a big population base and you
22 are dealing with a number of small communities, the
23 largest of which is Wawa.

24 And what this means is you have got a
25 very different situation than what you would normally

1 have in southern Ontario where you have incredibly
2 large numbers of people who have in some sense less
3 access to decision making and -- or if they are going
4 to have that access, it has to be far more formalized
5 because you just can't have all 3.3-million people in a
6 geographic area all seeing one person.

7 I guess the point I am making here is
8 that in Wawa District or any of other districts in the
9 area of the undertaking, the district, first of all, is
10 a significant presence. It is quite often one of the
11 largest employers in the community. It is highly
12 visible for a number of reasons, one of which is that
13 because we are involved in the management and
14 disposition of Crown resources, just about everything
15 that happens on Crown land - the majority of the land
16 is Crown land - is affected in some way by the Ministry
17 of Natural Resources.

18 You are living in a relatively small
19 community. I can assure you that most people knew who
20 I was and it was not necessarily because I initially
21 went out of my way to find that out, but simply that
22 you do exert a significant influence on people and
23 their lives and because of that they make it their
24 business to know who you are.

25 The second thing is that there is, I

1 think, a form of direct accountability. Because the
2 population base is relatively small and people know who
3 you are, you are very close to them. For example, I
4 had two neighbours who lived directly across the street
5 from me who were tourist operators. They knew who I
6 was, they lived right across the street and our lives
7 were a little bit intertwined in the sense that I was
8 their neighbour but I was also the district manager and
9 I was the guy who had some kind of control over what
10 happened in timber management planning or the number of
11 licences that were issued for moose hunting or
12 whatever.

13 So you are much closer I think than the
14 institutionalized setting that you find in areas where
15 there are larger populations or greater densities.

16 I have talked about government presence.
17 I think your staff are also, in the same way that I
18 said I was, are much more accessible and they are very
19 much a part of the fabric of the community. Your staff
20 may play in the local Mercantile hockey league, they
21 may belong to the Rotary Club, they may belong to
22 figure skating, they may be involved in an economic
23 advisory council in the community. I guess the point I
24 am making here is that they are not remote from, they
25 are very much a part of the community.

1 And so I think what that means in terms
2 of data collection - I am going to keep coming back to
3 this - is that we are not like a consulting firm that
4 is parachuted into the community and asked to go out
5 and collect a bunch of information. We collect it on
6 an on-going basis, we specially collect it in other
7 instances and we have access to the public in that
8 particular area on a fairly regular basis.

9 And I know Mr. Pyzer will probably go
10 through this over and over again: I have met, I have
11 met, I have met. What you really notice in the
12 district is the number of meetings you attend with --
13 and as I say, I think Gord would say we don't call them
14 stakeholders, they are people, the people who have an
15 interest in what we are doing.

16 The next point, the organizational
17 structure of the district is flexible. I guess this
18 really has to do with a question that was raised
19 earlier about: Are you adequately staffed in all
20 areas.

21 Well, there is a balance that has to be
22 achieved and really what I am referring to is simply
23 the fact that workload varies from district to district
24 depending on the resources and stakeholders that are
25 there. And I included an organization chart for Wawa

1 District which would be fairly typical of the kind of
2 chart that you would find for most districts, but it
3 would vary somewhat depending on workload and where the
4 emphasis of the various programs were.

5 That is really the only point we are
6 making, but that may have some importance in terms of
7 data collection.

8 THE CHAIRMAN: Mr. Freidin, I think we
9 should perhaps look at breaking for lunch. We do not
10 want to cut short this list, but it looks like with
11 each point you are going to be some time. Would this
12 be a good --

13 MR. FREIDIN: All right, Yes.

14 THE CHAIRMAN: All right. The Board will
15 break until 2:00 p.m.

16 ---Luncheon recess taken at 12:45 p.m.

17 ---Upon resuming at 2:10 p.m.

18 THE CHAIRMAN: Thank you, ladies and
19 gentlemen. Please be seated.

20 Ms. Murphy, before you go into your site
21 visit material - and this may expedite things
22 slightly - the Board, as you know, requested that we
23 would like to see the Temagami Wilderness Park area at
24 some point and since this was the area of the province
25 that more or less generally covers that, we thought

1 this might be the appropriate time.

2 We want to see, I think, the Evelyn
3 Smooth...

4 MS. MURPHY: Lady Evelyn.

5 THE CHAIRMAN: Lady Evelyn Smooth Water
6 Park, the existing logging road which has been the
7 subject of some controversy and that general area, but
8 it is not necessary that we see that on this particular
9 site visit as long as we do so certainly before we end
10 the hearing and perhaps there may be a more appropriate
11 time season-wise to see it, such as the early spring or
12 something like that.

13 We note from what you have got that in
14 order to get there during this visit we would be
15 required to drive to North Bay, probably on the
16 Wednesday, and then start off from there, and we do
17 have the commitments later on Thursday back in Toronto
18 and we do not necessarily want to rush that aspect of
19 the visit. So we are suggesting perhaps we leave that
20 for another time.

21 MS. MURPHY: That's fine, Mr. Chairman.
22 I think that was our suggestion and, in fact, I have
23 spoken to Ms. Swenarchuk and we are not in dispute on
24 that matter at this stage. So that's quite
25 satisfactory.

1 MS. SWENARCHUK: Mr. Chairman, did you
2 not receive a letter from me on this issue last week?

3 THE CHAIRMAN: We did, and you did not
4 seem to object to when we saw that.

5 MS. SWENARCHUK: As long as you do see
6 it.

7 THE CHAIRMAN: As long as we do see it.
8 We, of our own motion, decided that we were going to
9 see that area at some point in any event.

10 MS. MURPHY: I think the point was that
11 the area deserves more than just a couple of hours in
12 the air.

13 THE CHAIRMAN: And we would like to spend
14 some more time in that area at a future time.

15 MS. MURPHY: That is fine. Mr. Chairman,
16 then the situation is that on the itinerary what we
17 have done has chosen Option B for Day 4 and, that being
18 the case, what we will do is provide the map portion of
19 the itinerary and have that available in the reading
20 room for people to review. I think we might be able to
21 have it there this afternoon or at least by tomorrow
22 morning, which will give people a little bit more
23 information about the physical location of some of the
24 areas that you chose.

25 And there is just then one other small

1 point of clarification. I am going on the assumption,
2 Mr. Chairman, that we are following the original ground
3 rules for the site visit which would mean that the
4 guide is the MNR guide, Mr. McCreadie, and I provided
5 you with a copy of his curriculum vitae today.

6 And, as the original ground rules
7 indicated, Mr. McCreadie would provide you with factual
8 information. Other persons who are there would be
9 allowed to give you factual information on your request
10 if Mr. McCreadie can't assist you.

11 THE CHAIRMAN: Very well. Are you all
12 settled away now, Ms. Murphy, as to who will be
13 attending and who will be utilizing aircraft and
14 helicopters and that kind of thing?

15 MS. MURPHY: Yes, we have squared that
16 away this morning I believe and we now have a list of
17 people who are attending and telephone numbers, and I
18 believe that we do have the final list.

19 That was of concern to me this morning
20 and we discussed that with Mr. Mander and some of the
21 people who are here, so I think we are now in a
22 position to do the final arrangements.

23 People have been advised that where they
24 want to send more than one person that is acceptable
25 except that we can't take more than one person in the

1 aircraft and people have been quite prepared to go
2 along with that.

3 And I think you will see that the
4 proposal is that where that happens there will be
5 things on the ground that the people who are left
6 behind to see if they choose to do so.

7 THE CHAIRMAN: Has there been provision
8 made, I have not seen the list, for the media if they
9 wish to come?

10 MS. MURPHY: We have just counted the
11 number of people who have indicated they wanted to come
12 and then we also sort of counted one more space for
13 media which brings us at this stage to about 15 people.

14 THE CHAIRMAN: Because I do not think you
15 will necessarily get the media deciding whether they
16 are going to go or not until--

17 MS. MURPHY: The election.

18 THE CHAIRMAN: --around that time and
19 depending what else happens on that day.

20 MS. MURPHY: That's fine. The
21 arrangements are being made with the idea that extra
22 space may be needed.

23 And, finally, there are arrangements to
24 fly people back on the last day back to Toronto. The
25 aircraft that is available seats 13 so I guess somebody

1 will have to walk, but I think people will probably be
2 flexible at the end.

3 THE CHAIRMAN: It will not be the Board.

4 MS. MURPHY: No, I didn't expect it
5 would.

6 MR. MARTEL: I don't want to go to
7 Toronto. It is just as close for me to go to Sudbury
8 as it is for me to go to Toronto.

9 THE CHAIRMAN: That is right.

10 MS. MURPHY: Mr. Martel wants to go to
11 Sudbury.

12 THE CHAIRMAN: Well, he is not going to
13 go back to Toronto.

14 MR. MARTEL: Unless everybody wants to
15 come to Sudbury first. It is the same distance.

16 MS. MURPHY: Are you hosting? That's
17 helpful, that helps us with our last minute
18 arrangements.

19 THE CHAIRMAN: And I know this has not
20 been mentioned formally, but the accommodation for the
21 night of the 21st will have television sets available;
22 will they not?

23 MS. MURPHY: I would imagine so.

24 THE CHAIRMAN: I hope we are not going to
25 be in a lodge that only has a radio or a walkie talkie,

1 since some of us may be interested in what goes on that
2 evening.

3 MS. MURPHY: I am told the answer is yes
4 to your question, sir.

5 Then the final detail then is that on
6 the -- given the itinerary or rather the schedule for
7 the hearing, that the 17th of November would be the
8 last sitting day before the visit takes place and we
9 would take an opportunity then, sir, on that day to do
10 what we did with Mr. Kennedy and have Mr. McCreadie on
11 the record give a general description of what is going
12 to happen on the visit.

13 THE CHAIRMAN: That would be acceptable.

14 MS. MURPHY: I have one other matter I
15 would like to raise, Mr. Chairman, and I am going to
16 ask you to do something for our assistance.

17 It is particularly pertinent I think,
18 given your comments this morning, that some rigor or
19 some added rigor be brought into the process. We are
20 encountering a problem with the interrogatories and the
21 problem became serious really for us in Panel 7 but it
22 is continuing into Panel 8. If I could just explain
23 very shortly.

24 Basically, of course, there are rules and
25 the rules up until Panel 8 was that once people had

1 reached the material they would have 30 days to give us
2 the interrogatories. That was changed after Panel 8 I
3 believe and people now have 40 days to give us
4 interrogatories.

5 As you are aware, what we have been doing
6 when we send out the material is we have been sending a
7 covering letter which indicates a date so that people
8 will have some idea when that end date was. However,
9 with Panel 7, the original date that people were asked
10 to meet was August 22nd.

11 I am aware that someone - I wasn't here
12 and so I am not sure of whom that was, I don't think it
13 matters - someone asked for an extension and the Board
14 granted an extension I believe of one week for those
15 interrogatories to be submitted. However, the
16 interrogatories in fact were submitted over about a
17 five-week period with the last one coming in around
18 September 23rd, so over a month after the original
19 date.

20 Now, that is causing us some really
21 serious logistical problems. I wish there were words
22 to describe for you the seriousness of our logistical
23 problems. I can give you a little bit of information.
24 What is important to understand is that Panel 7, we
25 received 180 questions, many of which were in several

1 parts. In order to answer them we had to contact all
2 the districts and get a fairly large amount of
3 information. A conservative estimate, sir, is that it
4 took us about 100 staff days and it involved 50 staff
5 to answer those questions.

6 At the same time, the Board wants us to
7 reply to these people and provide this information to
8 all people who are receiving full-time correspondence
9 and the logistics between that are difficult. And with
10 the questions coming in over an extended period,
11 although we did not refuse to answer anyone's questions
12 although we were late, it made it almost impossible to
13 co-ordinate the exercise.

14 Now, I expected or I thought that the
15 problem was perhaps particular with Panel 7 in terms of
16 the kind of material that was in it. However, that is
17 not the case and the problem has continued into Panel 8
18 which is the one that we are attempting to deal with
19 now. The original date that we asked people to give us
20 questions was September 30th. Today is November 2nd
21 and as of today I have received three.

22 THE CHAIRMAN: Tell me, is the date that
23 you are requesting responses or submissions to be made
24 by the date that is 40 days after that person or the
25 person to whom you are sending the request would have

1 actually received the witness statement?

2 MS. MURPHY: Yes. Actually it is a
3 little bit more. It is a couple of days more so that
4 that leeway is there in case someone --

5 THE CHAIRMAN: Because you are serving
6 most of the witness statements by courier.

7 MS. MURPHY: Purolator.

8 THE CHAIRMAN: Okay.

9 MS. MURPHY: And bearing in mind that we
10 are dealing with now close to 30 people, we are using
11 Purolator to deliver materials to people who ask us for
12 bulky material and that is a tremendous exercise in
13 trying to deal with that and to do it in piece meal and
14 so forth is just beyond our capability at this stage.

15 Up until Panel 7 at least, people would
16 advise me that they were still coming and that they
17 would be late but that hasn't happened in Panel 8. I
18 have to contact people directly and ask them so we have
19 some idea what we are expecting.

20 I don't expected you to do very much
21 about this, I would just ask you to advise people, in
22 particular the people who are present, and I believe
23 this was true, Mr. Chairman, there is a rule that those
24 interrogatories shall be delivered 40 days after
25 receipt and perhaps it would be sufficient if you would

1 just remind people that if those questions come in late
2 we are not really obliged to answer.

3 ---Discussion off the record

4 THE CHAIRMAN: Ms. Murphy, we are going
5 to take the unusual step of calling a brief adjournment
6 for ten minutes while the Board discusses the matters
7 you have just raised because we feel it of sufficient
8 importance to deal with it now.

9 MR. COSMAN: Mr. Chairman, perhaps before
10 you do, just as we are one of the other parties who
11 will be facing interrogatories, as will my friend, I
12 can tell that whomever hears me, we will not have the
13 infinite patience nor resources of government to
14 respond to questions whenever they should decide to be
15 asked and that just might be something that all of us
16 are interested in knowing.

17 THE CHAIRMAN: Well, we will be back in
18 ten minutes.

19 MS. MURPHY: There is one other related
20 matter that I have been asked to mention. The
21 current - and I think the words you won't be surprised
22 to hear - the current order would require us to answer
23 questions within 15 days, and I think it was mentioned
24 to you earlier by a number of counsel that that may not
25 be possible.

1 I would ask you to bear that in mind and
2 this one example - it is one example - it would not be
3 possible to expend 100 days of staff time in 15 days.
4 So that is another thing that is a problem. That time
5 limit is a problem for us and I expect my friends will
6 advise you that it will probably be a problem for them
7 too to try to answer in 15 days.

8 MR. CAMPBELL: Mr. Chairman, if the Board
9 is going to go away and consider this matter, it may
10 wish to hear some comments from the other people about
11 whom comments have been made to date, I being
12 definitely one of them.

13 THE CHAIRMAN: Okay. Before we get into
14 a full-blown argument, I suppose we should hear
15 submissions.

16 Who wants to go first? Do you want to go
17 first, Ms. Swenarchuk?

18 MS. SWENARCHUK: I don't have a lot of
19 statements, perhaps I am another one of them. We are
20 another one of the parties, and I would like to be able
21 to stand up and assure the Board that we can
22 scrupulously adhere to every rule of timing from now on
23 and we will certainly do our best to do that.

24 THE CHAIRMAN: Would you speak up,
25 please? Please speak up a little bit.

1 MS. SWENARCHUK: And the delays of the
2 last months were particular and won't be repeated, but
3 obviously I am looking ahead, as Ms. Murphy poignantly
4 reminded me to do in our telephone conversation, to the
5 time when we will have the same obligations and, you
6 know, I think it is quite clear to the Board and I
7 probably don't have to say this, that we simply will
8 not have the resources, financial resources or staff to
9 respond to the number of interrogatories that
10 government agencies quite legitimately can be asked to
11 respond to and I have sympathy for the difficulty and
12 the resources and staff time taken.

13 I think, however, it is all in the public
14 interest ultimately to have that information released.
15 We simply will be out of the hearing quickly if we are
16 faced with the same level of cost. As I say, we will
17 certainly do our best to comply as quickly as possible
18 and to adhere to the time lines. I don't think the
19 time lines are unfair - I don't mean to suggest that
20 they are - but in terms of our capacity to produce, we
21 won't have it.

22 THE CHAIRMAN: Very well.

23 Mr. Campbell?

24 MR. CAMPBELL: Thank you, Mr. Chairman.

25 We are one of the parties who is currently behind in

1 delivering interrogatories. That situation will be
2 corrected within a few days, as Ms. Murphy is aware.

3 I think it is fair to comment that
4 certainly we ran into enormous difficulty with Panel 7,
5 it covers a wide range of disciplines and interests and
6 co-ordinating a useful review and input under those
7 circumstances, given the volume of material, is not a
8 simple matter.

9 I wish to advise the Board that as a
10 result of the difficulties that we had with Panel 7, we
11 have made significant changes in our internal review
12 process at the Ministry which will overcome this
13 problem for the balance of the witness statements.

14 As I say, as Ms. Murphy is aware, our
15 interrogatories that are -- any that are behind our
16 suggested dates, within a day or so, will not be in
17 that position. We expect not to have difficulties from
18 this point forward. I would say, however, that it
19 seems odd to me that it should be any great surprise
20 that there are significant numbers of interrogatories
21 when thousands of pages of information that no one has
22 ever seen before has been filed.

23 If the suggestion is that the number --
24 that questions ought not to be asked or there ought to
25 be any reluctance to deal with interrogatories, then I

1 certainly would take objection to that. We have tried
2 to use interrogatories to clarify matters, to obtain
3 information in a way that can be directly applied as
4 opposed to extracting it through cross-examination and
5 undertakings which, in my submission, are a far less
6 efficient way of dealing with matters of that type.

7 And, as I say, I think that circumstances
8 that developed over September is as much a function of
9 the volume of material we are being asked to deal with
10 as it is our respective capabilities in dealing with
11 it.

12 THE CHAIRMAN: Thank you.

13 Mr. Williams?

14 MR. WILLIAMS: Mr. Chairman, the Ontario
15 Federation of Anglers & Hunters, as you can appreciate,
16 has sparingly resorted to the use of the interrogatory
17 process during this hearing.

18 THE CHAIRMAN: Could you speak up,
19 please, a little bit.

20 MR. WILLIAMS: The Federation, Mr.
21 Chairman, has sparingly resorted to the use of the
22 interrogatory during these proceedings simply because
23 we do not have the staff or financial resources to do
24 the amount of research necessary to do justice to a lot
25 of the detailed evidence that is being placed before us

1 by the proponent which indeed is appreciated, but still
2 hearing thus it is certainly a logistical problem.

3 The mike isn't on. It is now on. Did
4 you pick up the first part or should I start again?

5 COURT REPORTER: No.

6 MR. WILLIAMS: Thank you. We know who
7 the electrician is here in the audience.

8 With one exception, Mr. Chairman, we had
9 introduced a very limited interrogatory but one
10 question of which was very expansive indeed and we
11 appreciate that and understand that and we have been,
12 in large measure, appreciative of the extent to which
13 the Board -- or the Ministry has endeavoured to respond
14 to our particular questions, the broad nature of them
15 being as they are.

16 Our delay, and I presume like others, was
17 probably attributable in no small measure to the fact
18 that we were, that Panel 8 followed hard on the heels
19 of Panel 7 and I think a lot of us -- sorry, 7 was
20 followed hard on the heels of Panel 6 and certainly we
21 were directing all of our attention to 6 and certainly
22 that contributed in part to our delay in addressing 7.

23 In any event, Mr. Chairman, we certainly
24 intend to conform with the rules like all of the other
25 parties have indicated their willingness to do so and

1 will be directed by you to do so.

2 We still will, in all likelihood, be
3 using the process sparingly, reserving most of it to
4 the cross-examination process rather than
5 interrogatory, unless there are specific statistics
6 that we know will be needed ahead of time and which
7 cannot be produced by the witnesses at that particular
8 point in time.

9 Save and except for that situation, we
10 will use it sparingly but in doing it we will also try
11 to avoid the misdemeanor of this past panel and meet
12 your time constraints to assist all parties in the
13 process.

14 THE CHAIRMAN: Thank you.

15 Ms. Swenarchuk, do you want to add
16 something?

17 MS. SWENARCHUK: Just on reflection, if I
18 may.

19 MR. FREIDIN: I am just wondering whether
20 Ms. Swenarchuk could use the mike. I can't hear her.

21 THE CHAIRMAN: Very well.

22 MS. SWENARCHUK: Am I going to be
23 attacked by misdemeanor here.

24 On reflection, I can't anticipate -- we
25 may well have difficulties with the volume of material

1 that is going to come in the next two months, and I can
2 assure the Board we will do our best to comply with
3 time lines, but we don't have 50 staff at our disposal
4 and it may be difficult for us to do so.

5 THE CHAIRMAN: Mr. Cosman, do you have
6 something further?

7 MR. COSMAN: Mr. Chairman, as I
8 understood the comment by counsel for the MNR, it
9 wasn't the fact of the number of interrogatories as
10 much as parties are not complying with the rules. And
11 from my perspective and from the perspective of others,
12 there can't be rules for some and not for others.

13 If the Board directs, imposes a set of
14 rules parties must follow them. If parties want to
15 come forward to say that they have good exception, that
16 is fine, but you can't have a set of rules -- no
17 hearing could be conducted if parties have different
18 rules governing their procedures.

19 And from my perspective Ms. Swenarchuk,
20 she says she doesn't have the resources. Well, I
21 happen to act for industry representatives but they
22 don't have people sitting around waiting for questions
23 either and, when the questions do come, we will do our
24 best to answer them, if they are proper and reasonable,
25 but they must be within the time limits that the Board

1 imposes.

2 Thank you.

3 THE CHAIRMAN: Thank you.

4 Anybody else wishes to comment on this?

5 MS. MURPHY: I didn't name any names, Mr.

6 Chairman.

7 THE CHAIRMAN: Okay. We will adjourn

8 briefly and discuss this matter and come back.

9 ---Recess taken at 2:35 p.m.

10 ---Upon commencing at 3:05 p.m.

11 THE CHAIRMAN: Thank you, ladies and

12 gentlemen.

13 Ladies and gentlemen, the Board has
14 considered the matters raised by Ms. Murphy, considered
15 the submissions of all other parties with respect
16 thereto, and has come to the conclusion that in the
17 Board's view, and in view of the type of hearing in
18 which we are involved, the Board's rules must be
19 adhered to.

20 In that light, the Board will not compel
21 any interrogatories to be answered that are submitted
22 late. If they are submitted by mail, they must bear a
23 postmark no later than the 40th day after service of
24 the witness statement.

25 However, time will run from the day the

1 last of the material, with respect to a witness
2 statement, is served by the party serving the witness
3 statement. So if those serving the witness statement
4 want to serve the witness statements in a number of
5 parts, then they are automatically extending the time
6 for the other parties to submit interrogatories on them
7 by 40 days. Therefore, it is to every parties'
8 advantage to submit the entire witness statement at one
9 time.

10 As to the period of 15 days within which
11 to answer all interrogatories submitted on time, if
12 they cannot be answered in the prescribed time of 15
13 days, the Board must be spoken to to obtain an
14 extension in that particular case.

15 Now, the reason for that provision is, is
16 that one party is required to answer all
17 interrogatories that are submitted by a number of other
18 parties, so the parties submitting them have to submit
19 them within the 40-day period. The parties answering
20 them, since it has to answer everybody's
21 interrogatories, may find in certain circumstances that
22 they cannot do so within the 15-day period. In that
23 case, they can apply to the Board for leave to have an
24 extension of the 15-day period.

25 Now, with respect to the witness

1 statements themselves, the Board has earlier ordered
2 executive summaries to be prepared, not to exceed ten
3 pages in length, and the executive summaries were to
4 include references to all supplementary documentation
5 or reports referred to or relied upon including
6 specific page numbers. The Board expects this
7 requirement to be complied with.

8 That provision is contained, the Board
9 believes, in its Order of September the 19th. The
10 final copy was sent out by the Board I think dated
11 September 19th, and you may recall that the Board's
12 request for executive summaries was dealt with in an
13 earlier Order than that which was to be effective with
14 Panel No. 7's statement.

15 Now, the Board observes that Panel No. 7
16 has some kind of statement up front. In its view, it
17 does not really comply with what the Board had in mind,
18 it does not contain references to page numbers and, as
19 a consequence, what the Board is dealing with now will
20 apply with respect to Panel 8. In other words, we are
21 not going to go back on Panel 7. We realize that you
22 may well have served Panel 8's statement as well as 9,
23 as well as 10.

24 You might consider, Ms. Murphy,
25 submitting at some stage an executive summary in the

1 appropriate form with respect to those three panels
2 that you have already served even though those may come
3 in late.

4 MS. MURPHY: Fine. If I can just
5 clarify that. As I understand it, the question about
6 the summary was spoken to at some stage since the Order
7 and I wasn't here at the time and I was just trying to
8 follow things from afar.

9 What we did --

10 MRS. KOVEN: Changed the format. What
11 panel was it that you changed the format, because the
12 original complaint was that the documents were in the
13 last two-thirds of the report and there is no way of
14 associating the summary comments with the information
15 referred to in the documents.

16 You came back to us with a new format and
17 I forget what panel that was in but, at that time, we
18 said we still want executive summary, we still want the
19 reference to appended material to appear in the
20 executive summary.

21 MS. MURPHY: And I think we are talking
22 about -- basically Panel 5 was similar, and Panel 6
23 having it, but the document was actually called the
24 Witness Statement which is a summary of all the other
25 material. If I were to produce an executive summary it

1 would just be a reproduction of that.

2 If I understand you correctly then, what
3 you want in that summary is a reference to which pages
4 in the rest of the document are being summarized--

5 THE CHAIRMAN: That's right.

6 MS. MURPHY: --by paragraph.

7 MRS. KOVEN: Yes. I think the point
8 that all of us -- the problem we are having is that
9 when we read this material we can find ourselves
10 reading documents of 100 pages and there may be a
11 couple of statements that are particularly important to
12 the points you are making in the witness statement and
13 we would like the specific references to the important
14 material that is appended.

15 THE CHAIRMAN: See, the idea behind what
16 we are trying to institute and we will institute when
17 we get to the scoping side of this, which will be Panel
18 8, is we will read the witness statements -- the Board
19 will read the witness statements. Within the bulk of
20 the witness statements, however, there may be areas
21 that you wish to highlight before the Board and which
22 you may wish to deal with specifically in oral direct
23 evidence with your witness panel.

24 It may be that those are issues that are
25 not in contention and the Board, after going through

1 the scoping exercise, may rule we do not need any oral
2 direct evidence, we will just go to cross-examination
3 by the other parties of that particular evidence.

4 But we are asking the parties to prepare
5 this executive summary because in doing so it will put
6 yourselves through a scoping exercise of its own by
7 saying to yourselves: In this 300-page witness
8 statement, which issues to us are important that we
9 wish to highlight and enable the Board to have an
10 overview of what this statement contains.

11 And what we are saying is that in that
12 executive summary you should be referencing, if you are
13 making specific points within the summary, where the
14 backup for those points are contained within the
15 statement.

16 Again, Ms. Murphy, to assist the Board and
17 to assist other parties, you might consider in the
18 executive summary as well that where you are using
19 supplementary documentation, such as additional reports
20 to the witness statement, you might have a sentence as
21 to what use that report is being made.

22 MS. MURPHY: I can envision perhaps
23 something that would look something like a factum that
24 would have under each paragraph the material within
25 that that supports the paragraph.

1 I think that that might get us some
2 distance to what you are looking for. I am trying to
3 come up with a practical way of doing it in some way
4 that I would be sort of familiar with and I think...

5 THE CHAIRMAN: What we are trying to
6 accomplish are two things. We are trying to have the
7 parties focus their thoughts on what evidence they
8 really want to highlight from within the lengthy
9 statements themselves, that is No. 1.

10 No. 2, we would like readers of those
11 statements, including the Board, to be able to read the
12 executive summary and get a sense of what that witness
13 statement contains and be able to get a sense of what
14 supporting documentation supports the statements made
15 within the witness statement, so that those who do not
16 wish to read the whole statement can have some further
17 guidance as to which areas of the statement they might
18 go to to satisfy their specific curiosities.

19 You see, we are dealing with a paper flow
20 and a mountain of documentation. It is very difficult
21 for everybody to follow along, it will make it easier
22 for both the Board, and I would suggest the parties,
23 because the parties will, by this exercise, be focusing
24 their own minds on to issues that they consider in
25 ranking of more importance than others. ,

1 Everyone is rising at once. This is
2 what you call an uprising.

3 Ms. Swenarchuk?

4 MS. SWENARCHUK: This is a very small
5 point, but picking up from your reference to the
6 inclusion of page numbers. I would find it helpful
7 perhaps simply to have a table of contents or something
8 at the first part of the document which would list
9 every document within it and page numbers.

10 MS. MURPHY: That was provided.

11 MS. SWENARCHUK: This is particularly
12 difficult with Volume 3 at this time which referred us
13 to letters which I never found in the text.

14 THE CHAIRMAN: Well, I think that was the
15 subject of a Board's earlier ruling.

16 MS. SWENARCHUK: It doesn't exist here.

17 THE CHAIRMAN: Part of the thing that we
18 recognize was, Ms. Swenarchuk, from some earlier
19 problems in this area was in the September 19th ruling
20 we said that the executive summary shall include
21 reference to all supplementary documentation and
22 reports referred to or relied upon by the proponent in
23 terms of this ruling, including specific page numbers.

24 Now, our feeling there was we should be
25 able to look at the witness statement and see from

1 either a table of contents or a listing of all
2 references referred to within the document or the
3 supplementary documentation, including page numbers, as
4 to what it entails.

5 MS. MURPHY: If I am correct, that
6 ruling -- Panel 9 had already gone out, then there was
7 that ruling and Panel 10 went out and my information is
8 that the list of documentation was provided there. In
9 any event...

10 THE CHAIRMAN: I think to clarify things
11 for everyone, we would like this to be in effect for
12 Panel 8's evidence. Now, Panel 8 may have gone out,
13 we understand that.

14 MS. MURPHY: It had gone out to Panel 10
15 already.

16 THE CHAIRMAN: That's right, okay. And 9
17 and 10 have gone out. We would like you to go back and
18 provide an appropriate executive summary, if you have
19 not done so, including this information so that when we
20 come back in February, particularly in February because
21 that is where we are going to start our scoping
22 exercise, we have that information available.

23 MS. MURPHY: Well, all we can do is give
24 it a try. I am not sure that we have all got exactly
25 the same things in our minds. If I understand you

1 correctly, you are looking for something which one of
2 our people here would call navigational aids, something
3 that would help you find your way through the document
4 and figure out which pieces of the document are meant
5 to speak to which statements in that summary, as well
6 as a list of documentation.

7 THE CHAIRMAN: Okay. Let me try and
8 clarify it further. The Board indicated in its last
9 ruling that in February when we start Panel 8 the Board
10 will have read the witness statements in their entirety
11 and we will have hoped that the parties have gotten
12 together informally to try and ascertain which, if any,
13 issues to be dealt with by that panel are or are not in
14 contention.

15 If they are not in contention, then the
16 Board at the outset, before hearing testimony from the
17 panel, will identify the issues which are not in
18 contention and may direct that no oral direct evidence
19 need be presented with respect to that particular
20 issue. That does not preclude, however, the panel from
21 the requirement of being available to be cross-examined
22 on that issue if there is a problem.

23 Now, if it is totally not in contention
24 and everyone says that is an extraneous issue to what
25 we are dealing with in this hearing, then in all

1 probability there will be no evidence given by the
2 panel, either oral direct or cross-examination with
3 respect to that issue.

4 It is just one of these superfluous
5 issues that found its way into the witness statement
6 and before the hearing the Board will have gone to the
7 unneeded requirement of having dealt with it by reading
8 it, even though it turns out it is not an issue in
9 contention, will suffer that burden.

10 Now, other issues -- just a moment. Other
11 issues, the parties may say even though they have
12 consulted informally, we think these issues are in fact
13 in contention. Now, the Board will then identify
14 those issues and the Board may direct that in its view
15 it does not require more oral direct testimony because
16 it feels that it has been dealt with adequately in the
17 witness statement. Again, the witnesses will be
18 available for cross-examination.

19 We are going to go at the outset of Panel
20 8 and deal with the entire witness statement and
21 identify what we think to be the issues. Parties can
22 supplement our understanding of the witness statement
23 if they think other issues are involved, and we are
24 going to try and make some progress in determining
25 which issues are and which issues are not in

1 contention.

2 Now, the parties of course can pre-empt a
3 lot of this by doing what we are going to do in advance
4 and hopefully reach some agreement as to which issues
5 are or are not in contention. What we have said - and
6 we mean it - is that if the parties cannot do it we
7 will assist you.

8 MS. MURPHY: Can I make a practical
9 suggestion because I don't know that all of us in the
10 room are entirely ad item about what we are talking
11 about, and I would suggest that we attempt to provide
12 this sort of documentation for Panel 8 some time before
13 you go on your visit.

14 I will circulate a draft and then that
15 will give us all something specific to look at and
16 speak to to see whether that whatever develops in
17 attempting to do that meets your requirements.

18 THE CHAIRMAN: That is a reasonable
19 suggestion. The Board would be happy to look at a
20 draft of this executive summary with respect to, say,
21 Panel 8. Other parties might be allowed an opportunity
22 to comment on it and the Board would then issue
23 specific directions that from there on we would like
24 executive summaries for all witness statements
25 following in this particular form.

1 And that will apply not to just you, not
2 just to the Ministry of Natural Resources, but to other
3 parties represented by counsel as well.

4 MS. MURPHY: I think we do need something
5 concrete to look at to sort out the issue.

6 THE CHAIRMAN: Sorry?

7 MS. MURPHY: I think we do need something
8 concrete that we can all look at to sort out the issue.

9 THE CHAIRMAN: And what we will try to
10 do, if this sort of draft document approach is viable,
11 is we will then provide maybe a guideline that can be
12 distributed to all the parties so that all the parties
13 will know when they are preparing their witness
14 statements what is requested.

15 Once again, that should not affect those
16 parties that have already prepared witness statements
17 to a large extent, because you can always go back over
18 your witness statement and extract the information
19 necessary to be inserted into this executive summary.
20 But that is the one thing that we find lacking in most
21 of these statements and that is one is compelled to
22 have the document thrown at them, a bunch of
23 supplementary documents as well, and it is very easy to
24 lose track of where you are. We want an overview
25 situation that everyone can understand and will make

1 things easier.

2 MS. MURPHY: I think in attempting to do
3 this we will probably, in thinking it through, come up
4 with a number of issues that would have to be discussed
5 and whatever. So I don't think we can deal with any of
6 them or consider any of them resolved until we --

7 THE CHAIRMAN: What happened up to the
8 end of 7, so be it. We are really looking towards
9 implementing this in a meaningful way by Panel No. 8
10 and, of course, that gives us all a little bit of time
11 in terms of the executive summary to get to that point.
12 We have until February.

13 Mr. Cosman?

14 MR. COSMAN: Thank you, Mr. Chairman. As
15 we are all considering the content of future witness
16 statements and how we should present our evidence, I
17 wonder if I might, with reference to Volume 1 of Panel
18 7, 266A, ask the Board just to turn to pages 64 and
19 keep their finger at 75, page 64 to 75, which is the
20 summary of evidence signed by the witnesses for this
21 panel and then you have all the supplementary or the
22 backup documents behind it.

23 If you go to 64 -- first of all, as I
24 understand this document, this in effect is an
25 executive summary. So you have an executive summary

1 for Panel 7. The only thing that differs from what the
2 Board would like, as I understand it, is that, for
3 example, under paragraph 3 where it says Document 1, it
4 should say then pages 20 to 30 or whatever, or page 11
5 or whatever it is, that is in addition to that which is
6 relied upon in the document itself.

7 THE CHAIRMAN: And it might even be
8 helpful in that to give it even a title, if the
9 document has a title.

10 MR. COSMAN: So that just for easy
11 reference.

12 THE CHAIRMAN: Right.

13 MR. COSMAN: All right. So in that
14 respect, we have say for Panel 7 an executive summary
15 of some 11 pages, some of the paragraphs are, as I
16 understand it, the summary of what the witnesses would
17 say in oral evidence. Where that is to be supplemented
18 by written documents, there is a reference right now to
19 the document and what the Board would consider very
20 helpful is where it makes reference to the document,
21 you should do so perhaps by title or page number.

22 THE CHAIRMAN: That's right.

23 MR. COSMAN: So with that we would
24 satisfy --

25 THE CHAIRMAN: Title preferably and page

1 number.

2 MRS. KOVEN: And ideally not just the
3 page number beginning at page 20 and going on to a
4 hundred, but ideally the very important points that are
5 in --

6 MR. COSMAN: So, for example, if a party
7 were relying on a specific page reference or a specific
8 graph that is on a specific page, they should indicate
9 that. If they are relying on the contents of the whole
10 document, it would be necessary to state that as well.
11 In some cases, of course, it will be more than just one
12 page, it will be a study that's relied upon.

13 MRS. KOVEN: And in that case you are
14 running the possible risk in any kind of a scoping
15 exercise of the relevant points in that being buried a
16 bit because they are not being brought out in the
17 summary.

18 I mean, if you are going to reference an
19 entire 200-page appendices without referencing the
20 salient parts of that study, make that clear to us.

21 MR. COSMAN: Okay. And I guess that's
22 something that would have to be determined with respect
23 to any given supporting document or study or whatever
24 as to how much of it is necessary for purposes of
25 supplementing the oral, because this really doesn't

1 even need to have a document necessarily because it may
2 be just nothing more than a summary of what the witness
3 may be saying orally.

4 But where it has a document, to the
5 extent that the parties can, they ought to specifically
6 refer to the portions or even page or even line of
7 those documents.

8 MR. MARTEL: There is also one other area
9 too, because you can move from the document in here,
10 you then move to, let's say, an instruction manual on
11 the assessment. Now, what do you mean? Are you
12 talking about the whole document or the specific part
13 of the document, otherwise you only get part of the
14 picture and you might only be using - and certainly
15 that's I think what we found - certain parts of any
16 supporting documentation you are only using four or
17 five pages, in some instances even less. And it seems
18 to me that if we could highlight that as well, then it
19 starts to condense the material.

20 MR. COSMAN: I think I understand. Thank
21 you.

22 THE CHAIRMAN: You must realize now, I
23 would like to add to Mr. Martel's comments, this one
24 other thing.

25 It is the Board's intention, if scoping

1 is going to be accomplished in any way, that when you
2 put in a document, unless you exclude a part of it
3 specifically and mean it to become part of the
4 evidence, you can put the document in in its entirety
5 and the Board will read it, because we do not intend to
6 have everything that is in all of the documentation
7 referred to verbally, orally by the witness.

8 It may all be subject for
9 cross-examination. Parties in opposition or on the
10 other side may refer to any part of the document--

11 MS. MURPHY: Or argument.

12 THE CHAIRMAN: Or argument, by way of
13 cross-examination or by way of argument, but we do not
14 intend that the witnesses are going to deal only with
15 those parts necessarily referred to in the executive
16 summary and the reason --

17 MR. FREIDIN: You say you will not refer
18 only to those parts which are in the executive summary?

19 THE CHAIRMAN: No, put it this way: We
20 are dealing with two different things. One thing are
21 issues which are or are not in dispute, okay?

22 If it turns out to be an issue that is
23 essentially not in dispute, the Board may rule in
24 effect we do not require any oral testimony, and if it
25 is not in dispute my by anyone or the Board we may not

1 require any testimony including cross-examination on
2 that issue.

3 Now, I do not think in fairness there is
4 going to be a great many of those issues that arise
5 where everybody agrees across the board that it is
6 totally not in dispute. What is more likely is that
7 there is going to be a category of issues that the
8 Board has identified that are, to some degree, in
9 dispute by some of the parties.

10 The Board may feel, however, that the
11 issue is adequately explained by the proponent or the
12 persons -- the parties submitting the witness statement
13 in the written documentation and, in that case, the
14 Board may direct that it does not require any further
15 oral testimony from the witnesses to what is already,
16 in the Board's view, adequately explained in the
17 witness statement or the supplementary documentation to
18 the witness statement.

19 But since, by definition, some parties
20 will be in dispute on that issue, they will be entitled
21 to cross-examine the panel on the evidence, the
22 evidence being in the witness statement which has been
23 admitted and is before the Board and will have been
24 read by the Board.

25 MR. COSMAN: Mr. Chairman, just perhaps

1 if I may again just for my own understanding. If a
2 matter is not in dispute, I think that's quite simple.

3 THE CHAIRMAN: Right.

4 MR. COSMAN: Obviously, we don't want to
5 take each other's time and the Board's time.

6 If a matter is in dispute then and I
7 think the way you put it was that the Board determines
8 that a matter is in dispute, the way you are obviously
9 going to be able to determine that because you haven't
10 heard anybody is that one of the parties will have said
11 the matter is in dispute.

12 THE CHAIRMAN: That's right.

13 MR. COSMAN: So you have to rely upon the
14 parties to --

15 THE CHAIRMAN: And we are doing that at
16 the outset. Before we hear evidence, we are going to
17 delineate what we feel, with the assistance of parties,
18 are the issues contained in that panel's evidence.

19 MR. COSMAN: And I can understand that if
20 a party tells you that some specific matter is in
21 dispute then the issue is joined, and the proponent, or
22 myself or Ms. Swenarchuk may not have known in advance
23 that that was in dispute because obviously there is no
24 pleading, there are no discoveries.

25 THE CHAIRMAN: Right.

1 MR. COSMAN: But at that particular time
2 then, the person whose evidence is, would obviously
3 want to focus on the matter that was in dispute
4 otherwise we have just indirectly done away with
5 examinations-in-chief.

6 Because, for example, if a certain matter
7 is determined to be in dispute--

8 THE CHAIRMAN: Yes.

9 MR. COSMAN: --and going back to the
10 Board's earlier ruling that they are not going to
11 prohibit a party from examining in-chief, then I would
12 suggest to you that the party who is leading that
13 evidence should not touch upon the evidence that is not
14 in dispute but surely he must have the right, or she
15 must have the right to amplify or address, by way of
16 examination-in-chief, the matters which that party for
17 the first time now knows is in dispute.

18 THE CHAIRMAN: Yes, provided - I agree
19 with you Mr. Cosman - provided that what they are going
20 to address orally in-chief is not simply repetitive of
21 what is in the statement.

22 MR. COSMAN: Accepted.

23 THE CHAIRMAN: Okay?

24 MR. COSMAN: I understand.

25 THE CHAIRMAN: They can amplify on it,

1 enlarge it, maybe highlight it.

2 MR. COSMAN: But you wouldn't want it
3 read into the record, for example?

4 THE CHAIRMAN: Exactly. We are not
5 getting it twice. The name of the game is we are going
6 to receive all of the evidence pertinent and relevant
7 to this hearing, but we are not going to receive it
8 twice, once in writing and once orally.

9 Now you will have, of course, and all
10 parties will have the right to cross-examine to their
11 hearts content, provided the cross-examination is
12 relevant to the issue at hand on issues in dispute.

13 MS. SWENARCHUK: Can I just make one
14 further point and it is extremely technical but I think
15 I am probably not the only person that will benefit
16 from this.

17 When I said earlier that I would like a
18 complete table of contents, this is what I mean: On
19 page 76 of Volume 1 we have a listing of the documents
20 that constitute the evidence. I am being told that I
21 have a new one with numbers. Well, let me ask this
22 then because I am not aware of having that.

23 If I turn to page 512, which is in Volume
24 2, I see a table of contents for that document which is
25 the Aquatic Environment Data Collection.

1 Now, tell me if you have already done
2 this, but what I would find very helpful would be a
3 table of contents at the beginning of Volume 1 using
4 the page numbers from the top left of the page
5 throughout the whole documents, up to page 900 or
6 whatever we have, that would provide the page numbers
7 for the documents that are listed at page 76, but also
8 all the types of documents that in fact make up each of
9 these documents which are separately numbered.

10 So it will be a matter of this: When the
11 document has been put together, the party then makes a
12 table of contents which lists with page numbers the
13 major documents and the components of those documents
14 page, page, page and puts that at the front of Volume 1
15 and then we can all quickly find every document and
16 every type of document including those subsumed within
17 these larger things that are called the seven lead
18 documents.

19 MS. MURPHY: Did the Board receive the
20 table of contents or these documents which were
21 prepared and submitted and provided to all parties?

22 MR. MANDER: We received a list of all
23 the documents that came with 7.

24 MS. MURPHY: There was -- just for your
25 information, there was a list of documents with an

1 index with the page numbers.

2 MS. SWENARCHUK: When you say document,
3 do you mean these seven documents or do you mean
4 everything that makes up each one of these documents?

5 MS. MURPHY: Perhaps this is something
6 that Ms. Swenarchuk and I can deal with later.

7 It is my understanding, certainly our
8 instructions and I believe it was done because I have
9 it in my hand, that this was circulated to everyone
10 with a complete list of the documents and the page
11 numbers.

12 MS. SWENARCHUK: Okay, great. Thank you.

13 THE CHAIRMAN: Is this the document that
14 is entitled Statement of Evidence, Panel 7 Index?

15 MS. MURPHY: Yes, sir.

16 THE CHAIRMAN: Okay. We have it.

17 MS. MURPHY: I don't know that we can
18 really get -- perhaps my other friends have something
19 to say. I don't know if we can get much farther
20 without some kind of example of this Panel 8 thing.

21 One thing that crosses my mind, Mr.
22 Chairman, is that if we are going to attempt to use
23 this summary for any sort of substantive purpose,
24 identifying issues, for example, it probably won't be
25 wise to have a page number limit.

1 THE CHAIRMAN: We are not necessarily
2 using the summary to identify the issues which are not
3 in dispute. You see, as I say, there are two separate
4 purposes for this kind of thing.

5 Some of these witness statements, as you
6 know, are being distributed to a wide variety of
7 parties, some of whom are not before us on a daily
8 basis. It is helpful to those parties without being
9 faced with a 900-page document to be able to look at
10 the front of it and fasten in or hone in on the areas
11 of concern that interest them without having to read
12 through the entire document. That's the main purpose
13 of the executive summary and the index with page
14 numbers that will accompany it.

15 The second purpose of the executive
16 summary is to allow the party preparing the statement
17 to be able to focus their own mind on some of the
18 issues that they may wish to highlight, because in 10
19 pages you are not going to cover 900. I mean, you are
20 going to cover it in terms of -- the executive summary
21 is going to cover the issues that you feel are
22 necessarily important you wish to highlight as part of
23 the executive summary, but it is just not going to be a
24 repeat of what is in 900 pages.

25 And that is a separate issue entirely

1 from the formal scoping exercise that will take place
2 at the commencement of Panel 8.

3 MS. MURPHY: But if the document then is
4 not really intended to have what I would call sort of a
5 substantive purpose, a listing of issues, all issues
6 purpose, then I would assume it would not be used to
7 limit ultimately the issues and matters that could be
8 addressed in-chief?

9 THE CHAIRMAN: No, that will be dealt
10 with at the commencement of the panel when the Board,
11 with the assistance of parties, decide which issues are
12 going to be before the Board formally through the
13 panels in terms of oral testimony, and which issues are
14 just going to be dealt with in terms of the witness
15 statement themselves.

16 MS. MURPHY: So we are not then
17 looking --

18 THE CHAIRMAN: See, what I am trying to
19 get through to you, if I can - and I do not mean that
20 facetiously - is the Board is prepared in this exercise
21 to go through the statements and the supporting
22 documentation, we are going to read them, we are not
23 going to just read the executive summaries and limit it
24 to that.

25 MRS. KOVEN: But to be sensible about the

1 executive summaries, if you leave out any important
2 issues - you might catch my eye with the executive
3 summary and if you have not put in the executive
4 summary the most important issues in your witness
5 statement, then you run the risk that it is going to be
6 lost in this incredibly difficult and undigestable mass
7 of material.

8 THE CHAIRMAN: We will go through them,
9 but it is to your own advantage to say that of the 400
10 issues contained in these 900 pages, these are the ones
11 that we would particularly like to catch the eye of
12 both the Board and the other parties who way wish to
13 read them.

14 MS. MURPHY: We are not taking this
15 document to the extent of treating it as if it were a
16 pleading which would limit where we are going.

17 MRS. KOVEN: No.

18 THE CHAIRMAN: No. Where that is going
19 to come up to some extent will be in the exercise at
20 the commencement of each panel where the Board
21 specifically delineates the issues which may include
22 ones that are not within the executive summary but
23 unlikely, presumably you would have caught the major
24 ones in the executive summary, and then decide whether
25 or not it wishes to hear more direct examination than

1 what is contained in the documentation.

2 MS. MURPHY: Well, the best thing is to
3 give it a try.

4 THE CHAIRMAN: It is a trial and error
5 effort and we will assist you wherever possible. But
6 with respect to the executive summary, let's take up
7 your suggestion, prepare a draft with respect to Panel
8 8, submit it before we rise at the end of this session,
9 before the site visit, and we will certainly address it
10 and give you directions on it.

11 MS. MURPHY: And I would suspect though,
12 given the earlier comments that what we are really
13 looking at would be not very different from what is in
14 there now as the witness statement, the summary.

15 THE CHAIRMAN: Right.

16 MS. MURPHY: Some information there that
17 helps people find the important other documentation.

18 THE CHAIRMAN: Right and perhaps an index
19 attached to it like you also filed as well.

20 MRS. KOVEN: Is it your intention for all
21 witness statements now to put a table of contents?

22 MS. MURPHY: They are in them since Panel
23 7.

24 THE CHAIRMAN: Yes, right.

25 MS. MURPHY: Panel 7 that went out -- I

1 mean, it was purely a matter of logistics, Panel 7 with
2 its difficulties in production went out without the
3 page numbers being typed on, so we just said let's get
4 that out and did it separately. It is there with the
5 evidence.

6 THE CHAIRMAN: Okay. Well, Ms. Murphy,
7 before you submit the draft I would heartedly encourage
8 you to consult with counsel for other parties, get
9 together, have an informal meeting or a formal meeting,
10 whatever you want, and say: Okay, you have the general
11 guidelines set down by the Board already, how can we
12 best accommodate the requirements of this executive
13 summary in a manner which will be most helpful to
14 everyone, including the Board.

15 And collectively you have got a lot of
16 high powered talent out there, you should be able to
17 come up with a fairly good draft so that it may require
18 some fine tuning by the Board, but hopefully it is not
19 going to be a situation where you present the draft and
20 five of the parties disagree vehemently with what you
21 have got.

22 I mean, we are trying to encourage
23 throughout the rest of this hearing and, in fact, we
24 are going to insist at certain times, that there be
25 more consultation of an informal basis by all of

1 parties to try and focus and narrow and scope the
2 issues and the documentation that is coming before the
3 Board, okay?

4 Well, I am sorry for having taken so
5 long, but I think the time we spend up front in this
6 type of dialogue will hopefully save a great deal of
7 time a little further down the road.

8 Now, do you want to continue with this
9 panel?

10 MR. FREIDIN: I have no further questions
11 of this panel.

12 In relation to Exhibit No. 301, which was
13 the values map that was referred to by Mr. Kennedy, I
14 can advise Ms. Swenarchuk that that map was prepared in
15 early 1987.

16 Q. Mr. Clark, I believe that when we
17 left off you were at page 66 of the witness statement
18 and perhaps you can advise me where you left off and
19 pick up from there?

20 MR. CLARK: A. I believe we had just
21 completed C, the organizational structure of the
22 district is flexible.

23 Q. All right.

24 A. Just to refresh your memory, I am
25 just basically highlighting a couple of these -- pretty

1 well all of them briefly with an aid to demonstrating
2 those characteristics of the district that facilitate
3 data collection and analysis.

4 And I think, as I pointed out earlier,
5 the emphasis is both on the formal structured process
6 by which we collect and analyse data, and more
7 particularly in some ways to try and give you some
8 insights into the informal part of that process as
9 well.

10 The next point we make is that
11 professional and technical staff in the district are
12 field oriented. The words I would focus on there,
13 professional and technical. These staff just don't
14 come from anywhere, they have training as biologists,
15 as resource technicians, as foresters, some are
16 geographers.

17 The point I am making here is the point I
18 made earlier, that in terms of establishing an IRM team
19 in the district, you use qualified personnel who
20 receive training, academic training, and in addition to
21 that they receive on-the-job training as well and most
22 of these issues -- most of these kinds of items will be
23 dealt with in more detail in Panel 8.

24 The next point I make is that they are
25 field oriented and I do recall that we had at least one

1 interrogatory that said: Well, what do you mean by
2 field oriented, and the answer was basically by nature
3 of the work that they do.

4 And, as I pointed out earlier, the
5 district is the doing end of the organization, staff
6 are involved in lake surveys, operational cruises,
7 doing plans, running parks, running junior ranger
8 camps, providing safety training. And what we mean, I
9 guess in context of this particular thing, is that
10 people, because of the work that's required of them,
11 are actually in the field and I think that the way I
12 described it earlier is they have their feet in the
13 mud, and there is not really much more I can say about
14 that.

15 I know you went on a field trip and you
16 probably came into contact with district staff and it
17 is probably something you recognize, that people are
18 sort of -- they have an innate familiarity with the
19 district within which they work.

20 Staff maintain a good working knowledge of
21 district resources and stakeholders. What is a good
22 working knowledge? I think a good working knowledge is
23 that kind of knowledge you pick up from, first of all,
24 dealing with the database that's collected specially or
25 regularly, especially or for special purposes. In

1 addition to that, it is that knowledge you gain from
2 having been there, seen it, touched it in some cases
3 and/or in other cases, having developed a rapport with
4 the various individuals who reside in the district.
5 And I think you get that, as I say, by having this
6 field orientation.

7 It may be because you are bouncing down
8 forest access roads in a half-ton truck and you see
9 things. It is because you talk to people, all kinds of
10 meetings. They may be Rod and Gun Club members, they
11 be the Reeves of townships, they may be -- there are a
12 host of groups that you are in general contact with and
13 I think in time you develop a facility and
14 understanding of the district that goes beyond what we
15 will characterize as the raw data that you find in the
16 databank. You do this both informally and formally and
17 I guess that I made that point a number of times
18 already.

19 Districts have been in place for a
20 considerable amount of time and I think the example I
21 used was Wawa has been around since 1920. There was
22 offices in White River, there has been offices in
23 Goudreau which is a very small community on the
24 railway. There has always been an office in the Wawa
25 area for about, as I say - what was it - since 1920's.

1 So your presence there, you are not -- as
2 I said, you are not parachuted in. The Ministry's
3 presence -- the old Lands and Forests and now the
4 Ministry of Natural Resources, in terms of a government
5 presence, has probably been in a lot of these
6 communities there longer than anybody else and they are
7 almost part of the history of a lot of these
8 communities, and I think if you spend any time there
9 you would sense that; some good, some bad.

10 But I think that that's a very important
11 part of the culture of the Ministry organization at the
12 field level and it has something to do I guess with the
13 on-going nature of data collection. It doesn't happen
14 in a day or a month, it happens over a long period of
15 time.

16 The district committee system facilitates
17 the exchange of information. I know that Mr. Douglas
18 and Mr. Monzon talked about the sort of interlocking
19 committee system in the Ministry where we have
20 management committees and technical committees.
21 Districts are part of that system and they have, of
22 course, their own standing committees. The most
23 significant one, at least from the point of view of the
24 district manager and I would think his supervisors -
25 and I have referenced it here with the general terms of

1 reference - is the district management committee which
2 is chaired by the district manager and is made up of
3 various program supervisors in the district.

4 And I guess -- enough guessing, but the
5 point that I want to emphasize here is that this
6 committee is above and it provides overall direction to
7 the district. It is the management committee and its
8 perspective is strongly integrated resource management
9 oriented. It is where the various programs and the
10 district manager review common concerns and problems
11 and policies, that sort of thing.

12 Other committees are special planning
13 committees and reference has been made to these in the
14 context of resource management planning and these are
15 committees that are established for the specific
16 purpose of putting together plans. Once again, they
17 have a strong IRM orientation. They normally have
18 representation from people in the various programs in
19 the district.

20 And, in addition to those committees,
21 there is a host of others. There is occupational
22 health and safety committees, there is social
23 committees, and the point that I want to emphasize here
24 is that what this does is it brings staff together and
25 it does so in a formal way in that they have to deal

1 with specific problems and issues, many of which are
2 planning and management oriented, some of which are
3 timber management oriented, some are fisheries oriented
4 and so on.

5 But above and beyond that, I think what
6 it does is on a day-to-day basis where you have got a
7 full-time staff that ranges between 90 and 56 people
8 and you maybe have six or seven major program
9 supervisors, is that it brings these people together
10 and acts as a catalyst in team building I guess.

11 So I think that's very important because
12 what it means is you are encouraging dialogue and it
13 allows for the free flow of information. So that it is
14 not just the purview of the fisheries person to know
15 about fisheries type issues. Because of his
16 involvement with a number of other members of a
17 committee, that information is normally shared. And I
18 emphasize that because that is part of the way we do
19 business and it is very important from the point of
20 view of the sharing of information.

21 The Ministry planning system provides a
22 context for implementing IRM at the local level. Well,
23 you have heard about the planning system, you have
24 heard about the fact that there is a hierarchy of plans
25 ranging from strategic land use plans through district

1 land use plans to resource management plans to work
2 plans to work schedules. I mean, there is a real
3 hierarchy that exists and it exerts a tremendous
4 influence on the district.

5 Initially, of course, it is setting goals
6 and objectives and establishing what work needs to be
7 done in a general way and then works its way down
8 through into work program planning.

9 The important point here in terms of data
10 collection is that it provides a structure within which
11 data collection can occur, it actually provides data.
12 The land use planning exercise at both the regional
13 level and the district level involved a very
14 significant consolidation of information which is now
15 available to districts and forms part of the database
16 that we refer to in Figure 5A.

17 In addition to that, it provides a
18 significant amount of direction to other planning
19 processes that are currently taking place and, of
20 course, the most obvious one we can make reference to
21 would be timber management planning.

22 So I think those are the major points that
23 I wanted to make.

24 Q. Just a couple of short clarification
25 matters I want to deal with. Can you turn to page 89

1 of the witness statement.

2 I apologize if some of these are obvious,
3 I am just concerned about certain language being used.
4 In the paragraph 3.8, the first paragraph you go down
5 about seven or eight lines and see a reference to
6 planning committees, multi-program planning committees?

7 A. Correct.

8 Q. Could you advise me whether that is
9 to be interpreted or could be interpreted as including
10 the timber management planning teams?

11 A. Yes, it could.

12 Q. All right. And was it intended to
13 refer to that type of planning team?

14 A. That's correct.

15 Q. Okay. Could you turn to page 101.
16 You will note on page 101 there is a document entitled
17 Purpose and Terms of Reference for the Wawa District
18 Roads Committee. And it indicates some of the things
19 that the roads committee does.

20 And if you look at Term of Reference No.
21 3 through 5 you see it talks about reviewing forest
22 access road proposals and construction plans and
23 dealing with potential conflicts.

24 Could you advise me how that roads
25 committee that is referred to there relates to timber

1 management planning committees or planning teams -
2 which we will hear about and I guess we have already
3 heard about - deal with road planning in relation to
4 timber management?

5 A. I should explain that this Terms of
6 Reference dates back to the time when I was district
7 manager in Wawa and at that time we weren't involved in
8 the timber management planning process that we are in.

9 It was very much -- it was very similar.
10 I understand that since this document was put together
11 Wawa District has revised its Terms of Reference.

12 The roads committee now functions in
13 situations, first of all, that involve the development
14 of road systems outside or adjacent to the district
15 that might not be picked up by timber management
16 planning. It deals with roads other than those that
17 will be considered in the context of timber management
18 planning.

19 If, for example, a mining company has a
20 property that it may want to do exploration work in or
21 development work in, there would be road proposals of
22 that type that aren't normally dealt with through the
23 timber management planning process and this committee
24 would be in place to deal with those kinds of things,
25 those kinds of proposals.

1 I guess the one other place where I use
2 them, and I think they are continued to be used, is in
3 instances where the plan has been completed and I
4 use -- and where the planning team has been disbanded.

5 Now, I know that in theory that doesn't
6 necessarily happen, but you may have completed the
7 plan, everything is in place and issues arise in the
8 context of that particular plan that may require an
9 initial review. It may ultimately involve an amendment
10 to the plan, in which case you would have to
11 reconstitute the planning committee. But it is
12 basically -- it picks up those areas where timber
13 management planning doesn't provide that context.

14 Q. I would like to just deal with two
15 final matters with you, Mr. Clark, both of them arise
16 out of evidence given this morning.

17 There was discussion about turn-over,
18 people leaving their particular positions within a
19 district, and the discussion dealt primarily with what
20 the potential negative consequences of that might be.

21 Are there any positive consequences to
22 their being a turn-over of staff in the district?

23 A. Well, I think the best way I can
24 answer that is to say staff turn-over, as a manager,
25 you view it as a double-edged, two-edged sword; it has

1 positive and negative impacts.

2 The negative ones, of course, are that
3 you lose staff and you lose staff that are familiar
4 with the district and have that background to deal with
5 problems and provide advice.

6 I suppose the advantage, and it really
7 was from my point of view that if you have a continuous
8 turn-over of staff - and you have to place limits on
9 this - it in a way keeps a district vibrant because
10 what you tend to do is you are bringing new people into
11 the district who have different perspectives, who have
12 worked in different areas, who can bring new kinds of
13 information to the district and I found that to be very
14 helpful.

15 We sometimes -- you know, you can almost
16 refer to it as local capture. After a while you get
17 very, very much involved in the district you are in and
18 sometimes you lose the perspective you can gain from
19 having lived and worked in other areas.

20 So, as I say, I think that there are some
21 disadvantages in the loss of good people with their
22 knowledge but, at the same, when you bring in new
23 people who are capable they often bring a lot of
24 background information with them that's very useful to
25 the district.

1 The other point I would make is that the
2 loss is not always as significant. I think this
3 morning reference was made to the fact if you don't
4 have all this material in writing and it is not
5 perfectly documented you may lose it when people leave,
6 and the Ministry has a lot of different ways of
7 communicating and certainly when people leave a
8 district it normally doesn't mean that they are not
9 available to be contacted and asked about issues that
10 they were involved in at the time they were in that
11 district. And, as I pointed out earlier, in addition
12 to that, we do have a committee system and often times
13 people will sit on a technical committee and they are
14 in direct contact with their colleagues in other areas
15 and that also enhances the flow of information.

16 So I think in balance there is probably -
17 and I am sure everyone has a figure in their mind - a
18 reasonable amount of time that people think that
19 different positions require in terms of time in a
20 district, but I think there are both positive and
21 negative benefits.

22 I must say that in my experience in Wawa
23 that the turn-over was generally a fairly healthy one
24 provided it wasn't all happening in all jobs at the
25 same time, which it wasn't.

1 Q. You indicated that when people leave
2 the district that they are accessible in your
3 experience. Have those people been contacted in
4 relation to the issues which have arisen in the
5 districts from which they have come?

6 A. I have been contacted by the district
7 manager in Wawa and that would be a case in point where
8 I was there, I may have created some of the problems,
9 but certainly as a result of that they have always felt
10 quite free to contact me and ask me about what my
11 understanding of certain issues or problems were when I
12 was there.

13 Q. And just one last question in that
14 regard. Are we talking about losing the knowledge that
15 somebody may have in their heads, is certain knowledge
16 in people's heads in the district sort of things which
17 are unique to them that no one else in the district
18 would know about?

19 A. No, it isn't, and that was a point I
20 did mean to make, was that most problems are shared
21 problems for the very reasons I was talking about is
22 that you do have people working on committees together,
23 they interact on a daily basis, they talk about
24 problems and issues and there is hardly a problem we
25 deal with in the district that doesn't have, what I

1 would call an IRM perspective.

2 In other words, you usually find that
3 there is more than one actor and it usually involves
4 more than one of your staff. So that the problem
5 doesn't just pack up and go away with the person -- one
6 person who might have been involved with it.

7 Q. Can you give the Board some sense of
8 the places to which these people who leave the district
9 actually go to? What I'm getting at: Do they stay in
10 the Ministry or do they leave the Ministry when they
11 leave the district?

12 A. Well, by and large my understanding
13 is that they stay in the Ministry. We certainly lose
14 some people, but generally speaking they go from one
15 district to another or perhaps they go to the region
16 and they take that piece of information with them and
17 use it in that context, or ultimately perhaps they are
18 in main office as well. So they are not lost to the
19 Ministry normally.

20 Q. The second area I wanted to ask a few
21 questions about was the evidence this morning where you
22 were emphasizing the knowledge that the Ministry people
23 in the district have of the various stakeholders and
24 what the interest of the stakeholders are and about
25 their concerns and that sort of thing. And you recall

1 giving evidence about being the government presence in
2 town.

3 Can you comment about the concerns,
4 perhaps of a general nature, perhaps specific, of
5 people who may be remote from the district and how
6 their concerns are taken into account, if at all, and I
7 am thinking about the example somewhere in northern
8 Ontario, what about the people who live in southern
9 Ontario in an urban area that may be concerned about
10 what is going on in the north?

11 MR. CLARK: A. I was somewhat concerned
12 this morning when I gave my evidence that perhaps we
13 put so much of a local emphasis on it that we lost
14 sight of these people and that certainly wasn't the
15 intention. I think that the emphasis derived from the
16 fact that we are talking about the district and where
17 we live and work.

18 The whole issue of how we stay in contact
19 with the general public is a difficult one and I think
20 the best way to approach it is to say that certainly at
21 the district level we have this day-to-day contact with
22 district stakeholders, the people that live and work in
23 the district and that is where a great deal of the
24 emphasis occurs.

25 In terms of the broader perspective, the

1 public at large, I think that their influence is felt
2 in a variety of ways. First of all, I think you
3 appreciate that it is obviously felt at the political
4 level which can have a very profound effect ultimately
5 in the way we do business in the district because I
6 think pressure or problems identified at the political
7 level can often be reflected in significant changes in
8 policy in the organization as a whole, program emphasis
9 which ultimately finds expression in the way we do
10 business in the district.

11 I am talking very generally here because
12 I think in some ways you have to deal with it that way.

13 At the policy development level itself,
14 is it not uncommon for the Ministry and think I - and I
15 know this was discussed by Mr. Monzon and Mr. Douglas -
16 that in policy development it is not uncommon for us to
17 consult with a variety of groups outside government in
18 the development of policy and we can do that through a
19 variety of mechanisms.

20 Examples are -- I actually put a note
21 down here, so if you will bear with me I will find it.

22 We often establish in policy development
23 special purpose forums and I can give you just a couple
24 of examples. The Ontario Provincial Parks Council is
25 one that provides an opportunity for a group that is

1 broadly representative of the population to provide
2 recommendation -- to evaluate the problems and issues
3 and make recommendations to the Minister.

4 There is another agency that has been
5 established called the NHL, the Natural Heritage League
6 which is an amalgam of about 28 members including
7 government -- that includes both government and
8 non-government membership that makes recommendations on
9 natural heritage conservation and these groups can have
10 a very significant impact on policy development.

11 Q. Could you advise whether you have any
12 contact with groups that are sort of provincial in
13 scope?

14 A. Yes, I was just getting to that. The
15 other way in which we do it is - getting back to the
16 district perspective - is that there are a number of
17 provincial organizations, the Ontario Federation of
18 Anglers & Hunters, the Federation of Ontario
19 Naturalists, CELA, a host of groups like that that are
20 provincially based but have directors at large or
21 executive members that are in the field, so to speak,
22 and who have affiliate clubs in the field.

23 So in terms of districts, it is not
24 uncommon for districts to deal directly with those
25 groups who presumably are in contact with these

1 provincial organizations.

2 So that, once again, if we get involved
3 in a timber management planning exercise - and I think
4 this is much closer to home - these groups are normally
5 advised of the process and have the opportunity to
6 notify these groups that are normally pretty broadly
7 based and represent a wide broad constituency of
8 interests throughout the province.

9 I guess one other example of an instance
10 where some of these issues, particularly as it relates
11 to timber management, is the process we are going
12 through right now which is a public forum, is getting a
13 certain amount of publicity and does provide an
14 opportunity for the public at large to become involved
15 in a process where we are looking pretty closely at the
16 whole aspect of timber management.

17 Q. Thank you.

18 MR. FREIDIN: Those are my questions for
19 Mr. Clark.

20 THE CHAIRMAN: Thank you.

21 MR. FREIDIN: How late do we plan to sit
22 today, Mr. Chairman?

23 THE CHAIRMAN: I think we will try and
24 sit until 5:30, if we can.

25 MR. FREIDIN; I will just leave it up to

1 you, if you want another break, when it might be.

2 THE CHAIRMAN: I do not think we will go
3 right through until 5:30, but perhaps we could go to --
4 well, perhaps we should break now for, say, a short
5 break. Ten minutes.

6 MR. FREIDIN: Sure.

7 THE CHAIRMAN: And then we will go
8 through to 5:30.

9 MR. FREIDIN: Thank you.

10 ---Recess taken at 4:15 p.m.

11 ---Upon resuming at 4:30 p.m.

12 THE CHAIRMAN: Thank you. Be seated,
13 please.

14 MR. FREIDIN: Mr. Ward -- first of all, I
15 will just advise the Board. Mr. Ward's evidence is
16 found in the executive summary at pages 71 to 72,
17 paragraphs 30 to 35.

18 And, again, paragraph 30 to 35, page 71
19 and 72. The report prepared by Mr. Ward appears in the
20 second volume, Exhibit 266B at pages 511 to the end,
21 511 to page 606.

22 Q. Now, Mr. Ward, your paper indicates
23 that for the purpose of fisheries management there are
24 certain information that is collected on a regular
25 basis; is that correct?

1 MR. WARD: A. That's correct.

2 Q. Could you advise how you collect
3 information on a regular basis, and what I am
4 interested in are the various methods of collection?

5 A. Okay. There are two sort of main
6 programs that we collect information on a regular
7 basis. One is our aquatic habitat inventory program
8 which includes lake surveys, stream surveys and river
9 surveys, and the other program is a fisheries
10 assessment unit program where they collect data on type
11 lakes.

12 Q. Now, is there any significant
13 difference between the type of information collected
14 under your aquatic habitat inventory program and the
15 information collected by assessment units in relation
16 to type lakes?

17 A. Yes. Yes, the main difference is
18 that an inventory program is looking basically at a
19 point in time data collection, whereas the assessment
20 unit program is collecting trend through time data, and
21 if I can just use an example, we indicate on page 521,
22 the bottom photograph of a secchi disk.

23 Q. All right. Could we just take a
24 moment and turn to that page. 521?

25 A. Page 521.

1 Q. Yes.

2 A. In an inventory -- or a lake survey
3 program we would get a reading of that secchi disk
4 where it would disappear from view to give some idea of
5 the water transparency; whereas in the assessment unit
6 program, they would be collecting that kind of
7 information in the spring, summer and fall on the same
8 lake over subsequent years.

9 In the inventory program, we would only
10 be doing that once on that lake and then moving to
11 another lake during that summer.

12 Q. And in terms of the group that does
13 the work or does the work on these type lakes, what is
14 it called?

15 A. The trend through time data you are
16 talking about?

17 Q. Yes.

18 A. The assessment unit program?

19 Q. Yes. What sort of -- the fisheries
20 assessment units, are they related to that?

21 A. That's right, yes. But it is the
22 fisheries assessment unit network we have across the
23 province. Is that what you are asking?

24 Q. Yes.

25 A. Okay.

1 Q. In relation to the work or the
2 surveys which are done under the aquatic habitat
3 inventory program: The lake surveys, the stream
4 surveys, and the river surveys, can you advise what
5 causes one lake, river or stream as opposed to another
6 one being the subject of an aquatic habitat inventory
7 survey?

8 A. We develop work program priorities
9 for our lake survey program. Actually in our fisheries
10 management plans it is laid out what lakes should be
11 surveyed, and what determines that is basically the
12 kind of stresses that are affecting those lakes and
13 whether we need that information.

14 It could be that certain parts of the
15 shoreline are allocated for timber or you may want to
16 have a -- there is a proposed cottage subdivision on a
17 lake or outpost camp and we would orientate our surveys
18 to get that information first rather than collecting
19 information on lakes that didn't have any development
20 proposal right away.

21 Q. How do you learn that there may be a
22 timber management -- or there may be some timber
23 management activities in the vicinity of one of those
24 water bodies?

25 A. Well, through our timber management

1 planning process.

2 Q. And I understand that as a result of
3 your curriculum vitae you have had extensive
4 involvement in timber management planning teams?

5 A. That's correct.

6 Q. And that was basically when you were
7 with the district?

8 A. In the district I got involved
9 with -- I was involved with the district planning team
10 and also as a regional specialist, I am on the regional
11 review team of timber management plans that are
12 produced in the region.

13 Q. In your experience, when you were at
14 the district, how did you actually learn that there was
15 going to be a timber management planning exercise?

16 A. Well, I guess in terms of our
17 district planning team, we would -- you know, when a
18 plan had to be prepared an initial meeting was called
19 with the district manager and the different supervisors
20 of the different programs, and we basically decided
21 what information was required and whose responsibility
22 it was to provide that information.

23 Q. And you have indicated that you might
24 actually -- or what is the primary function of a
25 fisheries biologist who is involved in a timber

1 management planning team?

2 A. Basically to develop prescriptions
3 along the shorelines of lakes and rivers and so on.

4 Q. Could you explain what you mean by
5 that?

6 A. Well, we have fish habitat guidelines
7 and a policy that tells us how to use those guidelines,
8 and the district fisheries biologist would be
9 responsible for applying those guidelines to the timber
10 management plan, using information from lake surveys or
11 stream surveys or any kind of information they can get
12 and using that to develop the prescriptions and where
13 you would cut, where you would leave buffers and so on.

14 Q. And are those -- can you give me just
15 a range of the sorts of prescriptions you might set or
16 recommend to protect fisheries values?

17 A. Well, if there are cold water fish
18 communities like lake trout lakes or brook trout lakes,
19 we normally recommend a continuous reserve around those
20 lakes, the width of the reserve or the buffer would be
21 dependent on the slope.

22 On other lakes, warm water lakes, we are
23 mainly concerned with -- that are less tolerant to
24 water -- or more tolerant to water quality changes such
25 as walleye pike lakes, we would be looking at

1 protecting critical habitat like spawning areas,
2 nursery area for fish and applying the buffer and the
3 area of concern prescriptions to those areas.

4 Q. And I understand that we will be
5 dealing with the guidelines in relation to fish habitat
6 and the policy in relation to those guidelines later in
7 your evidence?

8 A. That's right.

9 Q. When the fisheries biologist finds
10 out that there is going to be timber management
11 operations in relation to a particular water body, what
12 do you do?

13 A. Well, basically you either go and get
14 the maps where the timber stands are allocated for
15 harvest or the forester gives those maps to you and
16 basically you are looking at seeing what lakes and
17 streams are impacted by the timber harvesting in that
18 area and you may ask and look at aerial photographs,
19 topographical maps to try and build up your information
20 base.

21 And then you would also identify those
22 lakes that had timber allocated at the shoreline and
23 look at the lake surveys that you have on file for
24 those lakes to see what information on critical habitat
25 and slope and fish species present is available.

1 Q. Would you look at lakes where the
2 timber allocation wasn't down to the shoreline?

3 A. Yes, it is possible if there are
4 tributary streams or that that were affected by timber
5 harvesting, you know, that drained into that lake.

6 Q. You have indicated that you would
7 look at information that you had in order to obtain
8 information about the various water bodies. What
9 sources of information would you go to?

10 A. Well, the forest resource inventory
11 map would be one piece of information, as I mentioned,
12 the aerial photograph. Sometimes you can't spot some
13 of the smaller lakes on a forest resource inventory map
14 and it is a good practice to look at aerial
15 photographs.

16 It also tells you things like if there
17 are beaver dams present on creeks or you can sometimes
18 see shoal areas on lakes from aerial photographs. That
19 is probably the main two pieces of information we use
20 for map work.

21 Q. But in relation to information on the
22 lake itself, would you have any information which might
23 already be in existence about that particular lake or
24 other water body?

25 A. You may have information on fish

1 species present from, you know, records of anglers
2 reporting catching fish or you may know that there is a
3 tourist camp on that lake and their guests go in there
4 for -- it provides walleye and pike fisheries. That
5 type of information is available as well.

6 Q. Are there any situations where a
7 water body appears that it might be subject to timber
8 management activities, you look at your existing
9 information and that you have done a lake survey, for
10 instance, on that lake?

11 A. It is possible, yes. In many cases
12 we will have -- we have been doing lake surveys
13 probably for 20 years in the province and certainly
14 some of the larger lakes would probably have already
15 been surveyed and we will have some of that information
16 on file already.

17 Q. Are those lake surveys which have
18 been around for 15 or 20 years, are they useful in
19 terms of determining how to protect the fisheries
20 values from any potential effects of timber management
21 operations?

22 A. Well, they are useful. They would
23 have information like fish species present. We
24 certainly are upgrading our lake surveys and our
25 aquatic habitat inventory program as the years go by

1 and certainly we determine slopes more accurately now
2 than we did in the past and we certainly map the
3 critical habitats better than we did in the past.

4 But spawning areas, you know, could have
5 been recorded, you know, 15 years ago as well on some
6 of these maps.

7 Q. When you say that now that you do it
8 better in terms of slopes and those sorts of things,
9 what do you do when you look at an older lake survey?
10 Do you assess it to determine whether it is adequate
11 for your purposes?

12 A. Well, I guess in terms of an older
13 survey they had, basically the crews eyeball the slope
14 in terms of so many degrees angle that they saw the
15 shoreline going back.

16 Q. This is the old lake survey?

17 A. The old method. And we have found
18 that when you compare that to readings with a
19 clinometer - which I understand has been talked about
20 before in terms of a tool that foresters use for
21 determining heights of trees - we can use it for
22 determining slopes, that there will be a different
23 degree reading with the clinometer than what you think
24 with your eyeball what say, for example, a 30-degree
25 slope looks like.

1 So we recommend in the manual and that is
2 a technique we use that the crews are supplied with
3 clinometers and measure slopes with clinometers.

4 Q. Mr. Ward, do you have the
5 interrogatories in front of you?

6 A. Yes, I do. .

7 Q. Could you turn to Exhibit 279, which
8 is the Interrogatory No. 3 from the Ontario Federation
9 of Anglers & Hunters?

10 A. I have it.

11 Q. Now, I direct your attention to the
12 last paragraph of that interrogatory, Mr. Ward, where
13 it asks:

14 "Of the 9,000 lakes and 1,000 streams
15 surveyed over the past decade--"

16 Was information that was included in your
17 witness statement:

18 "--how many are found in the area of the
19 undertaking and how frequently, if at
20 all, have these lakes and streams been
21 resurveyed? What is the nature and
22 extent of the survey process? Who is
23 qualified to conduct these surveys? How
24 many have been surveyed and resurveyed
25 before and after timber harvesting

1 operations? What comparative analysis is
2 done?"

3 And the part of that question that I
4 would like to have you focus on is the last two
5 sentences:

6 "...How many of the lakes or streams have
7 been surveyed and resurveyed before and
8 after timber harvesting operations? What
9 comparative analysis is done?"

10 Could you indicate to the Board the
11 general nature of the response that the Ministry made
12 to that part of the question?

13 A. Well, basically our response was that
14 we are not aware of any lakes or streams having been
15 resurveyed. The inventory program isn't a mechanism
16 where you try to evaluate before and after effects of
17 timber harvesting.

18 As I mentioned earlier, it is a point in
19 time assessment of the sort of chemical, physical,
20 biological properties of that lake. In any type of
21 natural system there is a lot of fluctuations that
22 occur from year to year and actually from, you know,
23 day-to-day in a lot of the parameters that we measured.

24 So when you go and measure something at
25 one point in time, you could be on the up or down trend

1 of any one of those parameters. So you can't really
2 determine if you have some kind of perturbation, like,
3 for example, harvesting half the shoreline of a lake,
4 whether you could relate the impacts or the trends you
5 see determining in those parameters, whether it is
6 related to timber harvesting or something else.

7 That is why the importance of having a
8 monitoring program where you collect trend through time
9 data and get some idea of the variability, the natural
10 variability that occurs in that system you are studying
11 and normally biologists, we like to see at least two
12 years and preferably three years of data collection
13 before you have a perturbation occurring to that
14 system, so you get some idea of the natural
15 fluctuations that are occurring.

16 And then you have the perturbation occur
17 and then you monitor it for two or three years after to
18 see what is occurring. And that is basically our
19 monitoring program that will be addressed later and
20 another panel is going to be talking about that.

21 Q. What is the term you have been using,
22 perturbation?

23 A. Perturbation, yes.

24 Q. Could you spell that, please?

25 A. p-e-r-t-u-r-b-a-t-i-o-n.

1 Q. And what does it mean?

2 A. Well, it is a term that fisheries or
3 biologists are using more and more in the literature in
4 terms of describing a stress on a fishery. It can be,
5 you know, a climatic thing or it can be a harvest
6 stress or an environmental or habitat stress, but it
7 perturbs the system, it makes a change in the system
8 that you can measure and see what results occur from
9 it.

10 MR. MARTEL: Can I ask a question?

11 MR. FREIDIN: Yes, please.

12 MR. MARTEL: I may have missed a point.
13 Did you not say or did you say that you don't look to
14 determine if harvesting has affected an area. But
15 could that not occur, for example, if you had a shoal
16 where there was a spawn and that was disturbed quite
17 substantially by whatever -- what occurred? Could you
18 not determine if that in fact adversely affected an
19 area?

20 MR. WARD: You mean, if we didn't apply
21 the fish habitat guidelines and didn't have a reserve
22 or buffer next to that spawning area? It is possible,
23 but it would depend on the level of change.

24 For example, on a spawning bed, if you
25 had logging that occurred next to that spawning bed you

1 might see a couple of results occurring. One, you may
2 see erosion and sediment occurring and the sediment
3 ending up in the spawning bed. You may see more
4 organic material that comes from logging, slash and so
5 on being deposited on the spawning bed, both of which
6 can be detrimental to fish.

7 And spawning, and I will be talking about
8 this later in Panel 14 on access, where we go into more
9 of the impacts of sediment on spawning areas. The
10 thing is that there is some natural levels of organic
11 material falling naturally from trees that are along
12 shorelines or lakes. Trees die, they drop branches,
13 they drop needles. So there is a certain amount of
14 organic material falling on that spawning bed
15 naturally.

16 The same with some sediment and silt.
17 There is, you know, our water bodies, rivers are
18 naturally eroding the soil and you are getting the
19 sediment being deposited in lakes over time, and what
20 we are trying to prevent is speeding up geological
21 time, we want to maintain the natural system so that
22 the organisms that are in those systems can adapt to
23 natural changes over time. We don't want any major
24 perturbations occurring and trying to protect those
25 spawning areas.

1 So you would have to get -- like, if you
2 only had a one point in time inventory and knew there
3 was a little bit of silt and a little bit of organic
4 material, unless you had some good idea of the kind of
5 material that would be deposited, say, from year to
6 year and you might not know what the natural background
7 level is affecting that spawning area and, therefore,
8 if you did have logging you might not say: Well, it
9 adds 10 per cent more or 250 per cent more. That is
10 the point I was trying to get at. I don't know whether
11 I made myself very clear there or not, but...

12 MR. MARTEL: Let me ask another example
13 then. For example, if you lower water or raise water
14 at a specific time of the fall, you can, in effect,
15 wipe out the trout, as I understand it, the lake trout
16 spawn?

17 MR. WARD: Yes, they are fall spawners
18 and they normally spawn within three or four feet of
19 the surface of the lake, right. So if you --
20 especially with Hydro dams, where they use -- like to
21 store water in the summer time and draw it down in the
22 winter where we need our power, you can expose spawning
23 shoals to, you know, freezing and, therefore, destroy
24 the eggs that are in the gravel, yes.

25 MR. MARTEL: Does Hydro come to you for

1 that sort of -- I realize it is a little off topic, but
2 it is just that whole destruction of a certain spawn
3 that bothered me. Do you have a say in all of that
4 whole entire process?

5 MR. WARD: It varies from place to place,
6 but I know up in Kenora area where Lake of the Woods
7 Control Board has the sort of final say in water levels
8 regarding the Hydro generation that goes down the
9 Winnipeg system, river system, we have input into the
10 rule curves, which is the levels that are operated by
11 the dams so they don't affect the walleye spawning in
12 the spring where they also deposit their eggs as well
13 as lake trout and white fish spawn during the winter,
14 we do, yes.

15 MR. FREIDIN: Q. Now, Mr. Ward, going
16 back to 279 which is that interrogatory from OFAH. In
17 your answer you indicated that you don't want to see
18 sedimentation and erosion which gets on to spawning
19 beds.

20 Do the guidelines which you will be
21 referring to in your evidence address that concern?

22 A. Yes.

23 Q. And we will be dealing with that
24 particular portion of the guidelines?

25 A. Yes.

1 Q. Could you turn to Exhibit 277 which
2 is Ministry of the Environment's Interrogatory No. 28.

3 A. I have it.

4 Q. That particular answer, Mr. Ward,
5 indicates that 9,000 lakes have been surveyed in the
6 area of the undertaking and 204 rivers and streams have
7 been surveyed in the area of the undertaking, and that
8 the districts in which those surveys have occurred is
9 also indicated, and there is an attachment which
10 actually lists the -- pardon me, the answer indicates
11 the districts in question.

12 Can you advise me, do the 204 river and
13 stream surveys referred to in that answer constitute
14 all of the fisheries information which is available in
15 the area of the undertaking relating to rivers and
16 streams?

17 A. No, it is not. It is the rivers and
18 streams that have complied with the aquatic habitat
19 inventory survey manual and that they have collected
20 all the information that is laid out in this manual and
21 as submitted to Fisheries Branch or entered as a
22 complete stream or river survey.

23 Q. What other sort of information is
24 available in relation to the characteristics of rivers
25 and streams from a fisheries point of view, short of

1 having a full river or stream survey as you have
2 indicated?

3 A. Yes. Districts will sometimes
4 collect information on critical habitats in rivers and
5 streams and may not collect information, for example,
6 on invertebrates or on water chemistry but they have a
7 particular pressing issue that they want to know where
8 the spawning areas are, for example, in a river or
9 stream. They will do that kind of mapping and will
10 have that in district files, but they will not submit
11 that to Fisheries Branch as a completed lake survey.

12 Q. And you mentioned that their survey
13 wouldn't necessarily include information in relation to
14 invertebrates or I think you said water chemistry. Are
15 those two matters topics which are dealt with in
16 full-blown river and stream surveys?

17 A. That's correct. The other point I
18 should mention as well that our lake survey program
19 also collects some information on the tributary streams
20 that are entering lakes.

21 And a little later in my evidence when I
22 present or talk about some of these maps that I have as
23 an exhibit, run a shoreline cruise, I will point out to
24 the Board some of that information that we have on the
25 tributary streams.

1 Q. What would be the reason for looking
2 at these streams in relation to a lake survey?

3 A. Well, the water that flows into the
4 the stream -- into the lake -- or the stream that flows
5 into the lake will affect the water quality in the
6 lake, as well as there are many resident fish
7 populations, such as walleye, that go up rivers to
8 spawn. So we are interested in looking and identifying
9 upstream spawning locations as well for that resident
10 lake population of walleye.

11 Q. Could you advise why there appears to
12 be an imbalance in terms of the number of surveys done
13 of lakes in comparison to the number of surveys done
14 for streams and rivers?

15 A. Well, generally most of our fisheries
16 resources in northwestern Ontario in particular are
17 tied up in lakes. A lot of our streams are
18 intermittent and we don't have resident fish
19 populations.

20 Q. What do you mean intermittent?

21 A. Their flow during the spring freshet
22 or during any storm periods and they could be used as
23 spawning areas in the spring, but you wouldn't have a
24 resident fish population year round in those areas. So
25 they are less important from a fisheries point of view

1 in terms of, you know, where are your fish sources
2 located.

3 Q. When you say -- what is the
4 difference between these streams when you compare them
5 in the springtime during the freshet and during the
6 summer period, what is the difference?

7 A. Well, the difference could be, you
8 know, 30 or 40 difference in terms of flow of water
9 coming downstream. I think -- you know, you may have a
10 stream that may be five or six feet across in the
11 spring and it is a trickle in the summertime or
12 non-existent at all.

13 Q. Okay, thank you. Is there any
14 particular area within the area of the undertaking
15 where river surveys and stream surveys are undertaken?

16 A. Yes. In terms of river surveys, and
17 it is indicated in our answer where most of the rivers
18 surveys occurred in our northern region and if you look
19 at a map you won't see as many lakes up there as you
20 will in my region, in the northwest, where basically
21 the whole region is dotted with lakes.

22 Their main fisheries resources are found
23 in the large rivers that flow into the James Bay. And
24 so they have concentrated on doing the large river
25 surveys. I believe there are 11 that have been done

1 in the province and I think most of them have been done
2 there.

3 In terms of stream surveys that are
4 conducted in the area of the undertaking, they have
5 been done basically around the Great Lakes watershed,
6 basically brook trout streams that flow into Lake
7 Superior or else streams that occur in southern Ontario
8 in the southern part of the undertaking, the
9 Tweed/Bracebridge/Minden Districts where they would
10 have ground water supplies and they would have more
11 year-round flows of water and, therefore, resident fish
12 populations.

13 And certainly, in terms of their
14 resources, they would be looking at streams as well as
15 the lakes they have.

16 Q. Can I refer you to page 514 of the
17 witness statement.

18 A. All right.

19 Q. If I can refer you to the sixth
20 paragraph on that page.

21 A. "The surveys are conducted..."

22 Q. Yes. It indicates that:

23 "College and university students
24 receive provincial training and their
25 performance is audited to ensure

1 compliance with provincial standards of
2 data collection and documentation."

3 Could you explain briefly the training
4 that those survey crews receive?

5 A. Well, the training program is a
6 week-long course usually held in May at Dorset which is
7 a facility of natural resources where a lot of our
8 educational programs are carried out. Before the crews
9 are sent into the field they all have to go through
10 this week-long training course.

11 In terms of -- it's a combination of
12 lectures and field work done on the lake that's right
13 beside the Dorset facility.

14 Q. Could you advise me, are you involved
15 in those training sessions?

16 A. I am involved in part of the lake
17 survey training program, yes.

18 Q. How long have you been involved in
19 that?

20 A. I have been involved in it since
21 1980.

22 Q. Could you advise the Board what the
23 provincial standards that you refer to are in that
24 particular paragraph?

25 A. The provincial standards are the

1 standards outlined in the aquatic habitat inventory
2 manual.

3 Q. And I am holding up a document which
4 is entitled Manual of Instruction, Aquatic Habitat
5 Inventory Surveys; is that the document that you refer
6 to?

7 A. Yes.

8 MR. FREIDIN: Mr. Chairman, this is
9 actually one of the documents which was provided along
10 with the witness statement but was filed separately.

11 THE CHAIRMAN: Do you want to put it in
12 now?

13 MR. FREIDIN: Yes.

14 THE CHAIRMAN: Exhibit 302.

15 ---EXHIBIT NO. 302: Document entitled: Manual of
16 Instruction, Aquatic Habitat
Inventory Surveys.

17 MR. FREIDIN: Q. That paragraph also
18 indicates that the performance of the people doing the
19 surveys is audited. Could you briefly describe that
20 audit process?

21 MR. WARD: A. Yes. That refers to
22 Fisheries Branch sending someone out during the summer
23 to spend a day or two with each of the field crews, in
24 some cases going out with the crew and see how they
25 collect information but certainly checking the records,

1 the maps, the forms that they filled out to see if they
2 are in compliance with the manual.

3 As well, a certain amount of the forms
4 are sent to Fisheries Branch for filing and
5 documentation and they are also audited there, and we
6 get the results of the audit back in the region as well
7 as the districts to make corrections or whatever to the
8 data.

9 Q. Okay. Now, the last paragraph on
10 page 514 states that about a thousand streams and
11 rivers have been surveyed to date -- pardon me, the
12 second last paragraph which refers to the number of
13 lakes that have been surveyed, and it makes reference
14 to approximately 350 lakes having been surveyed
15 annually and then gives sort of a percentage breakdown
16 where it says that:

17 "Because larger lakes are generally
18 surveyed first, the percentage of water
19 areas surveyed (55 per cent) exceeds the
20 percentage of the lakes surveyed by
21 number (9 per cent)."

22 And there is reference to Appendix No. 3.
23 And would you turn to Appendix No. 3 at page 537,
24 please?

25 THE CHAIRMAN: Mr. Freidin, Ms.

1 Swenarchuk wants to ask the Board something.

2 MS. SWENARCHUK: I am not aware of
3 receiving that document or not, nor are several other
4 counsel.

5 MR. FREIDIN: I would ask Ms. Blastorah
6 to explain the history of that particular document and
7 to deal with the concern being raised.

8 MS. BLASTORAH: This is document No. --
9 or Exhibit No. 302, Mr. Chairman. Page 544 of the
10 witness statement was the list of references to Mr.
11 Ward's particular document which is part of the witness
12 statement, and No. 1 under that list of references is
13 the Aquatic Habitat, Exhibit 302.

14 Now, we indicated there that the table of
15 contents was produced as part of the witness statement
16 and that the document was very large and we made it
17 available in the reading room here in the hotel. It
18 has been there until this morning and I spoke to Mr.
19 Mander about this, this document is rather difficult to
20 obtain a lot of copies of, it is very expensive to
21 reproduce, therefore, we proceeded in that manner and
22 in fact the reading room copy is the one that's being
23 marked as the exhibit because they are difficult to get
24 ahold of. So it will go back there.

25 THE CHAIRMAN: Are you going to be

1 referring to anything specifically in that document?

2 MR. FREIDIN: I will probably be having
3 this witness refer to a number of pages of that
4 document. I don't have copies of those pages at the
5 moment, but I will undertake to provide those
6 particular pages.

7 THE CHAIRMAN: I think it would be
8 helpful for the parties, especially in preparing their
9 cross-examinations, if you provide the pages - if they
10 are not a great number - that will be specifically
11 referred to and have the document, the one copy itself
12 available in the reading room.

13 MR. FREIDIN: When I am able to do that
14 far in advance, I will do that.

15 MS. BLASTORAH: Mr. Chairman, just while
16 we are talking about this, I would just point out there
17 were a number of documents in this case or of
18 particular publications where this is how it was
19 handled because of either the difficulty in obtaining
20 copies, some of them are maps and so on, and we were
21 only able to get very limited copies.

22 So if anybody is concerned about this for
23 the rest of panel, they might just want to check the
24 various list of references and, in each case, it was
25 indicated that the document was made available in the

1 reading room.

2 THE CHAIRMAN: Well, I think the Board
3 has to take into account the inavailability or the
4 difficulty in obtaining copies for the convenience of
5 everyone.

6 In cases where it is difficult or
7 expensive or something like that, the Board is quite
8 prepared to rule that the one copy in the reading room
9 is sufficient. However, it would be helpful in cases
10 where specific pages are going to be referred to that
11 copies of those pages only be provided to the parties.

12 MS. BLASTORAH: We will do that, Mr.
13 Chairman. And I would also point out that we didn't
14 have any requests from anyone to provide portions of
15 this or anything. I don't know whether anyone took --
16 went and saw them.

17 THE CHAIRMAN: I am not sure everyone
18 realized that they were just available in the reading
19 room.

20 MS. BLASTORAH: Well, it did say in the
21 witness statement that that was the case, so...

22 MR. FREIDIN: Q. Mr. Ward, can you just
23 indicate in a general way what that exhibit is, what
24 that document is, the aquatic habitat survey manual.

25 MR. WARD: A. Well, my copy looks a

1 little bit different than everybody else's. It is a
2 binder, it is looseleaf.

3 This is what we provide our survey crews
4 with and the reason it is a looseleaf binder is that
5 there are amendments and changes that occur over time
6 and usually it is a year-to-year -- you know, a page
7 will get changed and everything like that, but 1987 is
8 the last version of it.

9 This manual outlines the methods of doing
10 lake, river and stream surveys and there are some
11 components that are complementary or indicated the same
12 and they may be only -- for example, stream surveys
13 describe the sub-strait types which I will go into a
14 little bit more detail in terms for identifying
15 critical fish habitats.

16 The lake survey component or the section
17 of the manual, we refer to that section in the stream
18 survey manual and so on with the river surveys. But it
19 was listed as a reference in my evidence to give people
20 an idea of the extent of information that we do collect
21 and how we try to standardize that collection so that
22 we can compare between lakes, rather than on the same
23 lake. In terms of trends, we can use it for
24 comparisons between lakes.

25 Unless you have that kind of

1 standardization, even a simple thing like a secchi
2 disk, if they aren't all taken in the deeper basin sort
3 of at noon and the person is not wearing sunglasses and
4 all that which is outlined in the manual, you can't
5 compare a secchi disk reading from one lake to another
6 lake and we use that kind of information to give us a
7 handle on the productivity of that lake and how
8 transparent the water is and everything.

9 So that's the purpose of this manual and
10 why it was a fairly thick document.

11 Q. Okay. Could you turn to page 537 of
12 the witness statement. Do you have that, Mr. Ward?

13 A. Yes, I do.

14 Q. I understand that there is something
15 which is a little bit misleading in the actual title of
16 this document?

17 A. Yes, it refers to lake surveys that
18 have been conducted to the aquatic habitat inventory
19 surveys standard in the area of the undertaking, the
20 five northern regions.

21 Now, not all of the northern regions, in
22 particular the northwest region and the northern
23 region, some parts -- the northern parts of those
24 regions are outside the area of the undertaking and the
25 number of lakes that are listed here include all the

1 lakes in those regions. So there are -- some of the
2 numbers may be higher that actually occur in the area
3 of the undertaking.

4 MR. FREIDIN: This is a document, Mr.
5 Chairman, there was an amended version of that
6 document, I am not sure of the exhibit number.

7 MRS. KOVEN: 267.

8 MR. FREIDIN: Thank you.

9 Q. Now, the document indicates that the
10 information is based on lake surveys carried out
11 primarily through 1986 for District Fisheries
12 Management Plan Databases.

13 And can you tell me, does that indicate
14 that the surveys were done prior to 1986? Are you
15 saying that prior to 1986 you did not have any
16 information on these lakes?

17 MR. WARD: A. It's up to and including
18 1986.

19 Q. Okay.

20 A. Including, there is a few from 1987
21 as well, but it doesn't include lakes that have been
22 surveyed in 1988 or the majority of lakes that have
23 been done in 1987.

24 Q. Could you take the Board through that
25 particular table, perhaps just take one line for

1 northwestern and go through that table and explain how
2 it is to be read?

3 A. Right. Basically, Fisheries Branch
4 canvassed all the districts and regions regarding the
5 numbers of lakes that we have in each of the regions
6 and the first table -- the first column regarding the
7 smallest lake in hectares in the DFMP, that is the
8 District Fisheries Management Plan Database, we were
9 asking districts basically what size of lake did they
10 consider as contributing to their fisheries potential
11 or productivity in their district that they were
12 developing fisheries management plans for.

13 And, for example, in the northwestern
14 region, the districts in, say, for example Fort Frances
15 said we are including all lakes down to one hectare in
16 size; whereas Sioux Lookout, which is our northern
17 district and fairly large, they were just considering
18 lakes that were down to a hundred hectares in size and
19 determined the amount of fish production that came out
20 of those lakes, all lakes larger than a hundred
21 hectares or larger and that's why we get a range there.

22 The next column, of course, is the lakes
23 that have been surveyed. The smallest lake that has
24 been surveyed, some districts have surveyed them down
25 to 1.9 hectares, others have just gone down to 25.8

1 hectares in size. The following column --

2 Q. What does that -- the smallest lake
3 that would be surveyed in Sioux Lookout was a hundred
4 hectares?

5 A. No, a hundred hectares is just what
6 they have used for their District Fisheries Management
7 Plan. They have had to calculate the amount of the
8 fish production by various species. Like, how many
9 kilograms of walleye, how many kilograms of lake trout,
10 how many kilograms of bass are going to be produced in
11 Sioux Lookout District.

12 And they have only used -- you know,
13 calculated that because you need to have some idea of
14 the productivity of the lakes and the surface area of
15 those lakes to calculate productivity. They only went
16 down -- because of the vast number of lakes they have,
17 only went down to lakes a hundred hectares. They
18 didn't look at any lakes smaller than a hundred
19 hectares in size; whereas other districts that didn't
20 have quite the extent of those number of fisheries had
21 the time and the staff available to consider fish
22 production down to one hectare in size.

23 Q. Like Fort Frances would be the
24 example of that?

25 A. Right.

1 Q. Okay.

2 A. And in terms of lake definition,
3 minimum size, we were trying to get a handle on, you
4 know, where districts would consider -- or what they
5 would consider a lake versus a pothole or that type of
6 thing. And it would, again, vary and we got a lot of
7 discrepancy from the districts and responses.

8 Again, in the northwestern region, it
9 went from one hectare to a hundred hectares in size,
10 sort of implying to us that the question really wasn't
11 understood by all districts in the same way. I don't
12 rely too much on that column.

13 Q. It would be a fairly large pothole, a
14 hundred hectares?

15 A. Right. In terms of lake water area
16 in hectares, again, we are just talking about those
17 lakes that were considered in the District Fisheries
18 Management Planning Database, the ones that contribute
19 to their fish production that they were dealing with.
20 And, again, in the northwestern region, we had over
21 3-million hectares.

22 The next column is how many of those
23 lakes had actually had surveys done and, again, we came
24 up with 1.7-million. It is roughly 52 per cent of
25 those lakes by surface area have been surveyed.

1 Q. And that is where -- if you take the
2 total then of that column, that's the 55 per cent that
3 is referred to in the witness statement?

4 A. That's correct. And then the final
5 column, the number of lakes. Again, it is the number
6 of lakes that they were considering in the District
7 Fisheries Management Plan Database.

8 In the northwestern region, we have a
9 little over 13,000 lakes and of those we have 1,500
10 that have been surveyed, 11 per cent by number of lakes
11 have been surveyed.

12 And, again, if you look at the bottom of
13 the column, it is the 9 per cent by number basically in
14 the area of the undertaking.

15 MR. MARTEL: Can I ask a question? If
16 you don't have a constant definition of what
17 constitutes a lake in this region, uniformly, then how
18 can you rely on these figures being accurate since you
19 have given evidence that they vary?

20 I mean, you might have left out 300 lakes
21 of 50 hectares because somebody didn't consider it a
22 lake.

23 MR. WARD: That's correct. I think in
24 terms of these numbers we are looking at, you know, the
25 order of magnitude. We want to give an idea of how

1 many lakes we have out there that contribute to our
2 fisheries production that we are trying to manage and
3 we are saying it is not 9,000 lakes, it is not 900,000
4 lakes, we are talking around 95,000 lakes, and it may
5 be plus or minus 5,000 but it gives us the ballpark of
6 what we are doing and the extent of our inventory
7 program.

8 MR. MARTEL: That affects your fishing
9 statistics as well then, your data for...

10 MR. WARD: In terms of kilograms of fish
11 that are produced, yes. But if you -- and, you know,
12 this is sort of beyond the scope of evidence that I was
13 going to give - but we can talk about it later if you
14 want to - there is quite a bit of error in terms of
15 determining fish production from lakes as well and how
16 we determine that. It is, again, a ballpark figure
17 that we use.

18 Q. What would cause you to look to one
19 lake as opposed to another as being a lake that will
20 give you fish production for the purposes of making
21 calculations like this?

22 A. Well, it depends, and I sort of talk
23 about it a little bit in my evidence, that districts
24 that have a lot of water and a lot of lakes and maybe
25 not as much demands aren't going to be as concerned

1 with 10 hectare and 50 hectare lakes as much as a lake
2 that has a lot of fishing pressure and doesn't have as
3 much water bodies available, they are going to start to
4 do more intensive management on smaller water bodies
5 and, therefore, they are going to be more interested in
6 the smaller water bodies than a district, for example,
7 like Sioux Lookout that has enough on their plate just
8 dealing with lakes that are a hundred hectares and
9 larger in terms of producing fish.

10 That is not to say that a district like
11 Sioux Lookout is going to ignore lakes that are under a
12 hundred hectares in size, for example, in timber
13 management planning. You know, it is obvious that they
14 survey lakes smaller than that.

15 And, again, as I mentioned in my
16 evidence, if there are stresses on a particular lake,
17 whether it is 25 hectares or 50 hectares in size, they
18 would survey those lakes to get that information on
19 critical habitat, but they wouldn't for the purposes of
20 district fisheries management planning in getting a
21 plan produced, they didn't bother calculating the areas
22 and the numbers of all those lakes that were smaller
23 than a hundred hectares in size.

24 Q. Okay. Going back to page 514, Mr.
25 Ward, the reference is made in the third last paragraph

1 that all the data collected is stored in district files
2 and it is making reference there to the lake, stream
3 and river surveys.

4 Reference is also made in that paragraph
5 to information being sent to main office for entry in a
6 computerized storage and retrieval system. Can you
7 tell me: How is the information stored and retrieved
8 at the district level?

9 A. At the district level, the
10 information is basically stored in files and retrieved
11 manually.

12 Q. And, in your opinion, based on your
13 experience, is that manual system adequate for
14 retrieval of information to be used in timber
15 management planning?

16 A. Yes.

17 Q. Is it organized in some way within
18 the district office?

19 A. Usually lakes are filed by
20 alphabetical, if they have a name. There are a lot
21 lakes, of course, that don't have names and I know in
22 Red Lake District we file them by base map number so we
23 could relate them to the timber management planning
24 where we use that information. That was the primary
25 purposes for using that information.

1 So if you had a base map with timber
2 stands allocated on it, you could just pull that file
3 and you had all those lakes that are surveyed for that
4 base map.

5 Q. If you are in the district and you
6 want information which has been computerized at main
7 office, are you able to retrieve that information or
8 get that information from head office?

9 A. Yes, we can.

10 Q. Can I refer you to page 515, and I
11 refer you to the second full paragraph under the
12 heading Fisheries Assessment Unit Program.

13 If you go down four lines in that
14 paragraph it indicates that:

15 "For the purpose of the type lakes,
16 program 6 fish species, which are top
17 predators in the eco-system and thus
18 exert the dominant role in fish community
19 dynamics or are of sport and/or
20 commercial importance were selected to
21 represent major fish communities."

22 And then they are listed. Could you
23 advise, what is the significance of the species that
24 are referred to there being the top predators?

25 A. Well, they are the top of the food

1 chain in that aquatic eco-system and if you can monitor
2 the health of those top predators, you have a good
3 handle of what is happening to that eco-system.

4 Q. In relation to the fisheries
5 assessment units there is reference to a couple of
6 ministry publications. The first one under the first
7 full paragraph under the heading of Fisheries
8 Assessment Unit refers to a report of the Ontario
9 Ministry of Natural Resources, 1984.

10 Can you advise what that reference
11 relates to?

12 A. Yes, it describes the role of
13 fisheries assessment units. It is a working group
14 report, we call SPOF, working group No. 13, SPOF being
15 the strategic plan for Ontario fisheries that was
16 developed in 1976, and from that strategic plan we --
17 fisheries managers realize that we had to develop
18 certain further strategies and direction to the field
19 to implement those strategic -- the strategic plan and
20 this was -- OMNR '84 was working group No. 13 that
21 defined the role of our fisheries assessment units
22 which was one of the core components of our strategic
23 plan for Ontario's fisheries.

24 Q. And what is the last -- the reference
25 at the end of the paragraph to OMNR 1978?

1 A. Yes, that was the first SPOF working
2 group and it was about the designation of assessment
3 units. It decided where assessment units would be set
4 up across the province, what fish communities those
5 assessment units would study and what stresses
6 affecting those fish communities would be studied.

7 Q. Can you advise whether the Ministry
8 of the environment was involved in either of those two
9 reports?

10 A. Yes, we had representatives from
11 Ministry of Environment on both committees, working
12 groups.

13 MR. FREIDIN: Mr. Chairman, this would be
14 a convenient time to break.

15 THE CHAIRMAN: Very well.

16 Ladies and gentlemen, I would like to
17 remind you that tomorrow we will start at 8:30 a.m. and
18 we will have to rise by 4:00.

19 Thank you.

20 ----Whereupon the hearing adjourned at 5:25 p.m., to be
21 reconvened on Thursday, November 3rd, 1988,
22 commencing at 8:30 a.m.

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